

DERRY CHARTER COMMISSION
DERR MEETINGS COMMISSION
DERRY PUBLIC LIBRARY

DERRY CHARTER COMMISSION
MEETING

December 22, 1995 at TOWN HALL

Members Present:

Grant Benson	Paul Hopfgarten	William Zolla
Jack Dowd	Sandra Hopfgarten	
Roy Feinauer	Jim Lupien	
Mike Gill	Fred Tompkins	

William Zolla called the meeting to order at 6:30 p.m.

Motion was made December 21, 1995 to reconsider putting the charter before the public. Motion was also made to table the motion until the full commission could get together. Paul made a motion to take the motion to reconsider off the table. Jack seconded. Discussion. Vote 9 yes.

Jack doesn't believe this is a good charter. There were far too many compromises. He doesn't have any problem with any one particular issue in the charter. One of the major issues is the cap and the way it is put together in this charter. He sees a problem with the district councilors that are being voted at large. He can see someone getting the majority votes within the district but loses the election at large.

Grant feels that we put a lot of time on this and he feels the majority of the people voted on the way they wanted to vote. He believes the cap is something to try, if it doesn't work, vote it out. He feels the district councilor elected at large is simple. He feels that it is the people's choice.

Fred stated that you are arguing the merits of the question that would be reconsidered if we voted to reconsider it. He feels we should discuss if we want to take the question up or not.

Mike believes there should be one more vote. Jack made a motion to reconsider. Discussion. Vote 6-3, No Grant, Jim and Bill.

Jack moved the question-a yes vote means no discussion on whether to bring the charter before the people. Jim seconded. Discussion. Vote 3-6 No Roy, Paul, Sandra, Mike, Fred, and Bill.

Mike feels that this is the best charter we could have made and it was true compromise with everybody here. It would be totally irresponsible of this committee not to send it to the voters to vote on it. Mike will support sending the charter for people to vote on it.

Sandra agrees with Mike. She is not pleased with the Charter but she feels it is their responsibility to bring it to the people. She believes that the Charter is not a good document and it won't serve Derry well.

Paul agrees with Mike and Sandra. He can't support the Charter when it goes before the voters but he feels that you have to let the voters make the decision.

Jack believes that Paul and Sandra will be writing a minority letter, if you vote yes for this you are not in the minority. Jack states that no one knows what this charter portrays. What he foresees is mass confusion going on between now and the election and that is what is going to hurt this town. That is why he feels the charter is no good. There will be 5 minority reports, Sandra, Paul, Fred, Jack and Roy.

Bill believes that the mass confusion that is being spread around is not from this commission it is being spread around by others to divert this charter from going to the people. That's why he believes it should go to the vote of the people.

Mike feels that the people deserve the right to vote on it.

Fred doesn't believe the cap will be in the best interest of this town. Fred can't support to putting the charter forward.

Roy believes the main purpose of the charter was Derry to become a city, and to get the schools and the council together on a budget, which was accomplished. He has a problem with the councilors and how to fill a vacancy. He believes the cap is too ambiguous and will cause too many problems.

Paul isn't happy with the charter because he wants a ballot vote. The people should vote on it directly. He believes that what Roy and Jack have listed as problems are the positives. He believes the people should have as much say as the state, the town or any jurisdiction.

Jim moved the question. A yes vote will send this forward for the people to vote on it. Mike seconded. Discussion. Vote 6-3, no Fred, Jack and Roy.

Move to adjourn.

Adjourned at 7 p.m.

R.F./C.G.

cc min #23

DERRY CHARTER COMMISSION
MEETING

December 21, 1995 at TOWN HALL

Members Present:

Jack Dowd	Sandra Hopfgarten
Roy Feinauer	Fred Tompkins
Mike Gill	William Zolla
Paul Hopfgarten	Marty Gross, Attorney

Absent:

Grant Benson
Jim Lupien

William Zolla called the meeting to order at 7:00 p.m.

Mike Gill moved to accept the minutes of December 11, 1995 meeting. Sandra seconded. Discussion. Vote was unanimous.

Chairman's Report:

Charter was forwarded to the State on November 21. Mr. Gross has reviewed the objections and comments from the State. Chairman mailed copies of the Attorney's memo, and clarification statement of the Historic District Commission to be added under 11.1(B) 4 to the members of the commission over the weekend.

Mike made a motion to add to Section 11.1(B) a new paragraph 4 regarding Historic District Commission, as read by the Chairman. Roy seconded. Discussion. Vote 6 yes.

Jack made a motion to reconsider not to submit this charter to the voters. Roy seconded. Jack would like to table the vote until all members are present. Discussion. Jack feels that this Charter is not good for the community. The cap is confusing and people do not understand it. It has too many issues that can be challenged that could bring a serious court action. Also the election of district councilors at large could result in a councilor winning the votes in his district but losing the election. The Chairman and Jack both agree that this is the best charter we can get from this Commission. Roy seconded the motion to table until all members are present. Vote 5 yes, Mike voted no.

Meeting was turned over to Attorney Gross. First recommendation Section 2.2 Moderator; Ward Clerk. Fred stated that Mrs. Meyers feels that the Ward Clerk and City Clerk are incompatible. Also on page 3 in regards to a separate ballot on referendum questions she also concurs with the State. Mike made a motion to accept the addition to Section 2.2 (B) as read by the Chairman. Roy seconded. Discussion. Vote 5 yes.

Section 2.6 Preparation of Ballots, by substituting the words "City Clerk" for the words "Ward Clerk" in the first and eighth lines of the section. Sandra moved to accept Section 2.6 as read. Jack seconded. Discussion. Vote 5 yes.

(Fred excused from meeting to return later.)

Revise Section 8.8, Appointive Officers, by deleting from the second and third lines thereof the phrase "(who shall also perform the duties of ward clerk as established by State law)". Mike moved to accept Section 8.8 as read by the Chairman. Jack seconded. Discussion. Vote 5 yes.

Amend Section 2.6 to clarify to assure referendum questions can be put on the same ballot for the election of city officers and in order to do this to amend 2.6 by deleting the word "Separate" from this first line of the Section. Mike moved to accept Section 2.6 as read by the Chairman. Sandra seconded. Discussion. Vote 5 yes.

Mr. Gross moved onto the comments from the Department of Revenue Administration. 1. First comment was on the powers of the town. Mr. Gross recommends to Revise Section 1.4 Intergovernmental Relations as written on Page 3 of his memorandum. Sandra moved to accept Section 1.4 as read by the Chairman. Jack seconded. Discussion. Vote 5 yes.

2. DRA states that the Trustees of Trust Funds have to be elected and Mr. Gross stated that this wasn't so. Mike moved for reconsideration of electing the Trustees of Trust Funds. Seconded by Sandra. Discussion. Vote yes Sandra and Mike. No Jack, Roy, Bill

3. Section 6.2 where there is a typographical oversight "City Administrator" should read "City Manager". Jack made a motion to change City Administrator to City Manager. Mike seconded. Discussion. Vote 5 yes.

4. DRA made a comment on Section 7.1(B) on the bottom line budget of the School District and abolishing the District Meeting. DRA deferred to Attorney General and Attorney General has offered no objection.

5. Section 8.6 in respect to City Manager's directing the time frame in which the School District budget must be submitted. DRA deferred to Attorney General and Attorney General said no action was necessary.

6. Section 8.6(F) providing for the Manager's responsibility for purchasing, would be clear if was cross referenced to the City Council's authority under Section 9.4 to establish dollar limits. Mr. Gross suggested to revise Section 8.6(F) to read as stated on page 4 of his memorandum. Sandra moved to accept Section 8.6(F) as read by the Chairman. Jack seconded. Discussion. Vote 5 yes.

7. DRA objected to the reference to "collection" of property taxes in describing the qualifications for appointed tax assessors. Mr. Gross pointed out to them that statute specifically requires that the words be included.

8. DRA expressed concerns in Section 9.3 which states "any organization receiving funds from the City". Mr. Gross doesn't understand what the DRA is talking about. DRA doesn't suggest any change and Mr. Gross agrees.

9. DRA's comment on Section 9.5 if Derry wants to establish a "rainy day fund" that would carry General Fund surpluses beyond the next succeeding fiscal year, legislation must be obtained. Jack made a motion to change the wording in the first line of the last paragraph from "in succeeding fiscal years" to "in the succeeding fiscal year". Sandra seconded. Discussion. Vote 3 yes, 2 no Mike and Roy. Motion carries.

10. DRA comment refers to Section 9.6 which refers to their comments on Section 7.1.

Paul Hopfgarten arrived at the meeting at 8:00 p.m.

11. DRA comments on Section 9.8(B) pointing out that the subsection should more clearly specify the form of budget that would take effect if the City Council fails to pass a budget by the May 31 deadline. Mr. Gross revised the second paragraph of Section 9.8(B) to read as stated on page 5 of Mr. Gross's memorandum. Roy made a motion to accept Section 9.8(B) as read by the Chairman. Jack seconded. Discussion. Vote 6 yes.

12. DRA comments on Section 9.13 regarding the provision for lapsing appropriations for capital expenditures. Mr. Gross revised the third sentence in Section 9.13 as stated on Page 6 in his memorandum. Paul made a motion to revise 9.12 as read by the Chairman. Jack seconded. Discussion. (Fred back to the meeting.) Vote 7 yes.

13. DRA comments on Section 9.21, asserting that the Section does not clearly state that only short term borrowing may be used for "operating expenditures" as required by State law. Mr. Gross feels that the DRA overlooked the language at the beginning of the Section.

Mr. Gross will make the corrections and forward the final report to the Chairman.

Chairman ruled if there is a minority report it will be a total of 1000 words. Mike moved to override the Chairman. Paul seconded. Discussion. Vote 6 yes, 1 no Bill. Minority Reports will be limited to 1000 words each.

Mr. Gross would like to see the explanation of the new charter and the indication of the major differences of this charter and the old charter. Chairman will forward to Mr. Gross.

Motion to recess the meeting to December 22, 1995 at 6:30 p.m. was made by Mike. Sandra seconded. Vote 7 yes.

Adjourned at 8:15 p.m.

R.F/C.G.

cc min #22

Paul made a motion to have Attorney Gross resolve the objections brought by the state agencies. Grant seconded. Discussion. Vote unanimous.

On the 20th we will address the issues and incorporate them into or take out of the charter and vote to process that document as final, let Attorney Gross make the changes. Roy will have 2000 copies printed.

Public informational meeting after the changes have been made.

Mike Gill moved to adjourn the meeting. All in favor.

Meeting adjourned at 7:30 p.m.

R.F./C.G.
cc min #21

CHARTER COMMISSION AGENDA

DATE: Monday, October 30, 1995

PLACE: Derry Town Hall

TIME: 6:30 p.m.

Pledge of Allegiance

Approval of Minutes of prior meeting

Chair's Report

Continue preparation of Charter

Adjournment

Copy for [illegible]

CHAPTER COMMISSION AGENDA

DATE: Monday, October 30, 1995
LOCATION: Derry Town Hall
TIME: 6:30 p.m.

1. Pledge of Allegiance

2. Approval of Minutes of prior meeting

3. Chair's Report

4. Continuation of Chapter

5. Adjournment

6. [illegible]

7. [illegible]

8. [illegible]

9. [illegible]

10. [illegible]

11. [illegible]

12. [illegible]

13. [illegible]

14. [illegible]

15. [illegible]

16. [illegible]

17. [illegible]

18. [illegible]

19. [illegible]

20. [illegible]

DERRY CHARTER COMMISSION
MINUTES

October 20, 1995 at TOWN HALL

October 25, 1995

TOWN OF DERRY

CHARTER COMMISSION

The Derry Charter Commission will hold a public hearing November 15, 1995 : 7:30 PM, Grinnell School Cafeteria for the purpose of presenting the preliminary report of the proposed charter the Commission intends to submit to the vote of the Town at the regular election to be held in March, 1996.

At the close of the public hearing, if time permits, the Commission will discuss and act on matters pertaining to the completion and finalization of the Proposed Charter.

Roy Feinauer, Sec.

October 25, 1985

TOWN OF BERRY

CHARTER COMMISSION

The Berry Charter Commission will hold a public hearing
November 15, 1985 : 7:30 PM. Grinnell School Cafeteria
for the purpose of presenting the preliminary report of the
proposed charter the Commission intends to submit to the
vote of the Town at the regular election to be held in
March, 1986.

At the close of the public hearing, if time permits, the
Commission will discuss and act on matters pertaining
to the completion and finalization of the Proposed
Charter.

Roy Reinman, Sec.

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DERRY CHARTER COMMISSION
MINUTES

October 30, 1995 at TOWN HALL

Members Present:

Grant Benson

Paul Hopfgarten

William Zolla

Jack Dowd

Sandra Hopfgarten

Roy Feinauer

Jim Lupien

Mike Gill

Fred Tompkins

William Zolla called the meeting to order at 6:30 p.m.

Bill made a correction to the minutes of October 23. Joel was non-committal as to how the School Board felt about the charter if there was not a budget cap. Paul wanted to know what the 6-3 vote was on 9.14. Roy stated that the tape was not clear and it doesn't recognize raising of hands. Paul moved to accept the minutes of October 23 as corrected. Jack seconded. Vote unanimous.

Bill turned the meeting over to Paul.

Bill talked about the budget cap. He feels that the budget cap will strangle the city in the long run. He also feels that the approval of the charter is at risk. He would like to move to reconsider the budget cap issue. Roy seconded. Jim spoke on the motion to reconsider. People have had concerns on the budget cap as to whether it is workable and if it is enough money to spend. Concerns of the commission are the CPI average takes too long to reflect increases in the actual consumer index, revitalization of the downtown, road work projects, does it allow enough for spending, bond ratings, and will it tie council hands. We need checks and balances. If the residents don't like what the councilors are doing, they can vote them out.

Fred doesn't see the necessity of a budget cap. There will still be two separate municipalities. You can not mix the funds with the city and the school district. You can not control the East Derry Fire District or the county budget.

Bill feels that you are going to have to elect people who will look at each line item and question it. The cap can't go down, possibly too much money will be spent..

Mike would like to see a budget cap that is straight forward to the people. He is disappointed that the School Board and Friends of Education came in at the eleventh hour to get things changed. He won't vote to reconsider the budget cap.

Sandra agreed with some of Mike's comments. She would like to see a flat percentage. Without the cap if the councilors are spending irresponsibly you can vote the councilors out, but this takes a long time. With the cap the councilors are looking at only a bottom

line number the max they can spend with the cap, they can be voted out under those circumstances also. Cap doesn't state that each department has to increase spending by the same percentage.

Roy brought up the fact that the bond issue, interest and payments, whether established by school or municipality may be exempted on the limitation. Reserve fund is a slush fund that can be spent anyway you want it. You can use it to offset property taxes or budget estimated costs, use it to meet federal and state mandates, unanticipated emergency expenses, property tax credit and it goes on and on. Nashua does not have this in their charter. They have a spending cap, but not as detailed as Jim has put in.

Grant is concerned that the people that are elected will go directly to the budget cap ^{allowing increased} and if this is done we are in trouble. He feels that the budget cap holds people in place but if they are liberal spenders we've all got a problem. He will not support any changes.

Jack expected that something like this would come up but he didn't anticipate it would pass. He believes that the charter will not pass with a cap in place. He doesn't know if with the threat of the School Board coming and saying the charter wouldn't pass with the cap in place, is a valid one, but he believes that from what people have told him in the past three weeks that the charter will not pass. We will go back to a town form of government and see 141 at the school district meeting. Jack believes this should be reconsidered and that it is not good for the town.

Jim stated if he felt that the elected officials had been acting responsibly for a number of years he wouldn't have brought this forward. If he felt that the downtown was a thriving area, values of peoples homes were increasing, felt that the tax rate was reasonable, felt that the community was harmonized and not polarized he would not put this forward. The downtown is almost nonexistent, no commercial tax base, values of peoples property continue to plummet, tax rate continues to rise and the elected officials have not acted responsibly. He believes that it will set a guide for people, it will stabilize the tax rate and it will allow for commercial growth and for people to plan on what the increase will be. He feels the budget cap is needed.

Roy feels that there are three explosive items, one is, that we want to be a city; then to do away with the school district meeting. Thirdly there is this budget cap. This charter will not pass.

Fred stated that values have gone up \$10,000,000 over what he estimated in July. Some of the officials have done a good job, some have done a pretty bad job and others just so-so. What is costing us money in the town is the population, especially the school population. There is only one way to resolve this problem, and it is to cut off the residential development. There is a whole series of laws that tell the towns and school districts what they can do. If they don't do it, because of a budget cap, there will be some citizens that will be irate about it and they will take us to court. You can put in a budget cap, but it will mean more management time expended and little gained.

Mike said awhile ago that the town, school budget and House Bill 141 can all relate. We don't need to be a city. What have we changed from the existing charter - gone from 7 to 9 members, left East Derry Fire District as is, said budget will be prepared by the School Board and taken to the Manager to the legislative body who will vote on the budget, eliminated the School District meeting and now instituted a budget cap. People feel that things are the same but have taken away the ability to go the School District meeting and we have increased the size of the legislative body to nine. He is trying to save this charter.

Grant stated if the budget cap stays and if it doesn't work after a year can't it be rescinded? Let's try the cap and if it doesn't work, get a referendum vote.

Bill believes that the charter will pass. He feels that the cap within the charter is workable. He feels the budget cap is too liberal.

Jack stated that if you think the charter will pass solely because of tax rate, he believes that you are mistaken. The cap is going to strangle the town.

Sandra stated if the CPI does rise, there is no wording in the cap provision that the budget has to rise to that point. The responsibility relies with the voters of this town. With a city form of government we have lost the voice in bonding issues, lost in deciding the school budget. The cap is the only citizen voice available right now. She would like to see it at a flat percentage. The cap is not going to solve Derry's tax problems. It is the only means that is left for the citizens.

Paul will not agree to reconsider this vote. It is the last best hope we have. The vote will be close. He feels the cap will do more to stabilize than anything in this charter. He feels that this charter will not be accepted because of the combination of the school district and a city municipality. He believes that House Bill 141 is the best thing that could happen. He would vote not to reconsider.

Vote on the motion 3-6, Jim, Mike, Sandra, Grant, Paul and Bill voted no.

Jim made a motion on Section 9.12 Capital Improvement Plan to add after with the Planning Board the words and the School Board shall prepare etc. Paul seconded. Discussion. Vote 5-4, Roy, Jack, Fred and Mike voted no. Motion passed.

Fred spoke on the Heritage Commission formally the Historic District Commission. If it is deleted from this charter, the councilors will put in an amendment in March to delete the Historic District Commission from the present charter and put it in as an ordinance to institute the Heritage Commission. Roy made a motion to delete 4.2D. Sandra seconded. Discussion. Vote 8-1, Paul voted no. Motion passed.

Roy made a motion to add on Section 10.8 Definitions (M) Department. In order to record intradepartmental or interdepartmental, the word Department, as used in this charter, shall be defined to be the same as the function that is determined by the DETAIL FUNCTION CODE classification of Accounts. Grant seconded. Discussion. Vote 9 yes. Motion passed.

Roy suggested having the effective date of the charter March 18, 1996 and that the present councilors would serve out the terms they were elected for and that the trustees would hold office until the city election of 1997.

Paul made a motion to elect all the councilors in November 1996 with the four district councilors and the councilor at large to be elected for two years and the four district councilors to be elected at large, to be elected for 1 year. Then the charter schedule will be in effect. Grant Seconded. Discussion. Vote 9 yes. Motion passed.

Roy made a motion which states On the first working day of January, 1997 there will be elected a Mayor and a Vice Mayor for a term of 1 year. Seconded by Jack. Vote 9 yes. Motion passed.

Paul made a motion that in November of 1996 we hold elections for the following offices for Derry Public Library trustees to elect 2 for 1 year, 2 for 2 years, and 3 for 3 years with terms to be for three years on a staggered basis. For Taylor Library Trustees elect 1 for 1 year, 2 for 2 years, 2 for 3 years with terms to be for three years on a staggered basis. For Supervisors of the Checklist to elect 1 for 2 years, 1 for 4 years and 1 for 6 years with terms to be 6 years one elected every two years on a staggered basis. A moderator will be elected for 2 years. Roy seconded. Discussion. Vote 9 yes. Motion passed.

Fred made a motion to remove from SECTION 11.2 Continuation and Compensation of Personnel (Abolition of the Office of Mayor) Paul seconded. Discussion. Vote 9 yes. Motion passed.

Fred made a motion to delete Section (C) in 11.2. Paul seconded. Discussion. Vote 9 yes. Motion passed.

Mike read SECTION 11.2 A and made a motion to delete 11.2A. Paul seconded. Discussion. Vote 9 yes. Motion passed.

Mike read 11.2(B) which changed to (A). Mike moved to accept. Paul seconded. Discussion. Vote 9 yes. Motion passed.

Mike read SECTION 11.2 (D) which changed to (B). Mike moved to approve as read. Paul seconded. Fred made an amendment to remove in the first line responsible to the Mayor for the administration of all City affairs placed in the Manager's charge under the former Charter. It shall read the Manager shall upon the effective date of this charter shall serve under the direction and supervision of the City Council. Roy seconded. Discussion. Vote 9 yes. Amendment passed. Vote on motion. Vote 9 yes. Passed.

Mike read SECTION 11.3 Council Salaries. Mike moved to approve as read. Paul seconded. Fred made an amendment to change Chairman to Mayor and delete as of July 1, 1993. Seconded. Vote on amendment. 9 yes. Vote on 11.3 as amended. 9 yes. Passed.

Mike read SECTION 11.4 Transfer of Records and Property. Mike moved to approve as read. Paul seconded. Discussion. Vote 9 yes. Motion passed.

Bill read SECTION 11.5 Effective Date. Mike moved to accept as read. Seconded. Fred made an amendment to change the date to January 1, 1997 and change the word City in City Council to Town. Jack seconded. Vote on the amendment 9 yes. Vote on SECTION 11.5 as amended. Vote 9 yes. Passed.

Bill read SECTION 11.6 Absorption of the East Derry Fire District. Roy moved as read. Jack seconded. Vote 9 yes. Motion passed.

Fred suggested the following: Page 33 ^{AFTER} of the City Council' in the first ^{sentence} ^{Add To} read "provided the subject matter appears on the agenda". (SECTION 6.2 ORDINANCES)

Meeting November 6th with Mr. Gross. November 15th public meeting. November 19th to submit to Concord.

Paul made a motion to adopt the charter that was just put together. Jack seconded. Vote 5-4, Roy, Paul, Sandra and Fred voted no. Motion passed.

Paul voted no because he doesn't believe you should adopt a City charter, lot of bad points to the charter. Budget cap is one of the good things in the charter. Having a single ward probably is illegal, combining the school district with the community is equally done whether it is a town or city. If it is good, it would be good with a town council form of government. If not it is not good either way. He doesn't believe in passing something just to pass it.

Roy disapproves of the cap and doesn't believe it should be in the charter.

Sandra voted no because the only area where it is not compromisable was the choice to become a city.

Fred voted no because of the cap.

Jack was against the cap, against nine members to the council. He believes there has been significant compromises within the Charter Commission. Ran because he thought that something could be done better for this community. Believes it is his duty to make this charter work.

Jim believes there has been compromises. There are benefits to becoming a city and along with negatives to becoming a city. He thinks that there has been a lot of positive things - moved the elections, expanded the council, better mix of councilors. Struck a balance with the cap and allowing the schools to fall under the city form of government. Feels that some people will vote against it because of the cap but also because they don't want to become a city.

Mike wanted a town form of government with House Bill 141, but he feels that after working so hard on the charter that he should support it for the people.

Grant believed that staying a town was out because of the house bill and the next best thing was a city. If it doesn't work, you can throw it out. He feels that it should be supported.

Bill voted for it because he thought it was a compromise. Bill wants the minority report to be ready when submitted to the State on November 20th.

Mike made a motion to reconsider the vote in support of the charter. Grant seconded. Discussion. Vote 5-4

Mike made an amendment to send the charter to ^{our}council for final comments. Jim seconded. Vote 9 yes.

Motion to move to adjourn.

Meeting adjourned at 10:10 p.m.

RF/CG min #18

Derry Library

CHARTER COMMISSION AGENDA

DATE: Monday, October 23, 1995

PLACE: Derry Town Hall

TIME: 6:30 p.m.

Pledge of Allegiance

Approval of Minutes of prior meeting

Chair's Report

Continue preparation of Charter

Adjournment

CHAPTER COMMISSION AGENDA

DATE: Monday, October 22, 1990
PLACE: Room 100, 1st Floor
TIME: 6:00 p.m.

1. Pledge of Allegiance
2. Approval of Minutes of prior meeting
3. County Report
4. Committee Report of Chair
5. Adjournment

1

DERRY CHARTER COMMISSION
MINUTES

October 23, 1995 at TOWN HALL

Members Present:

Grant Benson	Paul Hopfgarten	William Zolla
Jack Dowd	Sandra Hopfgarten	
Roy Feinauer	Jim Lupien	
Mike Gill	Fred Tompkins	

William Zolla called the meeting to order at 6:30 p.m.

Jim moved to accept the minutes of October 16th meeting. Paul seconded. Then Jim moved to delete comments of chairman of the School Board. Discussion. Vote 1-7-1. Jim, yes, Fred, abstained. Mike moved to accept. Paul seconded. Vote 7-1-1, Jim no, Fred abstained.

Chairman's Report:

Mr. David LeFrancois, President from the Friends of Education, spoke on their concerns in Article 5 The Governing and Legislative Body, Article 7 General Powers and Proposed Budget Cap (letter given to the commission and will be filed in the Correspondence Folder). They could live with the first two but not with the Proposed Budget Cap. Chairman said this would be the last week to take public input on the Charter. There will be a public hearing to present the charter and we will not be making the changes unless changes are made by our council. Fred stated that ^{WITH} the other charter commission changes were made after the public meeting. Chairman stated that the commission will come up with a preliminary charter which will go to our attorney and present it to the public. Then the charter will be sent to the State for their approval.

Mr. Joel Olbricht, chairman of the Derry School Board, read his letter to Mr. Zolla and referral to an article in "The Premier" October 1995. The letter will be filed in the Correspondence Folder. The School Board is very concerned about Section 9 relative to limitations on budget increases (a.k.a. spending caps) and feels that they can not support the charter in area. Mike asked if the school board was polled individually or was there a meeting. Joel stated they all saw the letter and this was representative of the School Board's views. Chair asked if the budget caps were not in that the School Board would support this charter? ^{goel:} Yes, that is true. ~~from - comments~~ They are definitely not excited about the caps and they would rather not support it. Some say they will not support it, and some are still in the thinking

process. Paul stated that not everyone running for mayor in Nashua is opposed to the cap. One of Joel's concerns was the bond issue.

Mr. Michael Buckley, member of the Derry School Board, stated what Mr. Olbricht portrayed was an accurate view of how the board feels. He feels that a spending cap is not what this town can live with. Chair asked if the reoccurring cost on Bond issues could be a main problem? There is no place now in the charter to account for that. That is only one of my concerns states Mr. Buckley..

Mrs. Robie stated she is not in favor of this charter and she will not support a City form of government.

Fred stated that he would not support this charter as it presently is.

Roy asked when the public meeting would be. It was decided that it would be held on November 15th at 7:30 p.m. place to be decided upon.

Jim made an amendment to Section 9.4 to insert a paragraph B to deal with exemption to limitation. Additional reoccurring costs associated with a new bond issue other than principle interest or a one time bonding cost shall be presented to the City Council as an additional line item budget with supporting documentation, said budget, if for a portion of a fiscal year shall be presented as a full fiscal year in the supporting documentation and after a public hearing the City Council may enact the additional budget with or without an amendments. In amending the budget the City Council may increase, decrease, or reject the additional budget. Approval shall be 2/3rds majority of the entire City Council and only after the Council approval of the underlying bond issue. The additional budget, if approved, may be added to the base line budget of the requesting authority and its subsequent fiscal year becomes subject to limitations in section 9.3A and B. Paul seconded. Discussion followed. Fred would change it to say the cost associated with the operation of the asset purchase of the proceeds of the new bond issue, other than the principle and interest, for one time bonding cost shall be presented to the City Council as an additional line item budget with supporting documentation. Discussion. Fred made a motion to the amendment to delete everything after the first comma, delete the first two words and add on the first line right after with the operation of the assets to be purchased from the proceeds of a new bond issue...other than principle and interest or a one time bonding cost shall be presented to the City Council as an additional line item and add the words within the budget for supporting documentation and removing everything after the comma. Discussion. Jack seconded. Discussion. Jack withdrew

second. Fred's amendment failed. Discussion on original amendment made by Jim. Fred read his amendment again. Seconded by Jack. Discussion. Vote 4-5, Bill, Roy, Paul, Sandra and Mike voted no. Amendment failed. Discussion. Vote on amendment as originally written. Vote 2-7, Fred, Jack, Grant, Roy, Paul, Sandra and Mike voted no. Amendment failed.

SECTION 9.12 Capital Improvement Plan read by Paul. Roy moved as read. Jack seconded. Jim made an amendment to add (H) All capital improvements must be funded in accordance with limitations mandated by Section 9.3 A and B and within the provisions of Section 9.4. Paul seconded. Discussion. Vote 6-3, Jack, Bill and Roy voted no. Amendment passed. Vote on 9.12 as amended. Jack moved. Paul seconded. Vote 7-2, Jack and Roy voted no. Amendment passed.

SECTION 9.13 Lapse of Appropriations: Special Revenue Funds read by Sandra. Paul moved as read. Seconded by Sandra. Discussion. Vote 8-1, Fred voted no. Motion passed.

SECTION 9.14 Purchasing Procedure read by Jack. Paul moved as read. Jack seconded. Discussion. Mike made an amendment to remove No competitive bids shall be required when purchasing through the State of New Hampshire or at the State of New Hampshire bid prices. Paul seconded. Discussion. Vote 6-3 Jim made an amendment to remove Requirements for bids may be waived in specific instances by a two-thirds vote of the City Council. Paul seconded. Discussion. Vote. 4-5, Bill, Roy, Grant, Jack and Fred voted no. Vote on SECTION 9.14 as written. 7-2, Sandra and Paul voted no. Motion passed.

SECTION 9.15 Special Assessments read by Jim. Jim moved as written. Sandra seconded. Discussion. Vote 9 yes. Motion passed.

SECTION 9.16 Fiscal Control read by Mike. Mike moved as written. Jim seconded. Discussion. Vote 9 yes. Motion passed.

SECTION 9.17 Bonding of Officials read by Grant. Jim moved as written. Seconded by Mike. Discussion. Vote 9 yes. Motion passed.

SECTION 9.18 Investments, Trust Funds read by Bill. Jim moved as written. Paul seconded. Discussion. Vote 9 yes. Motion passed.

SECTION 9.19 Grants, Gifts read by Paul. Mike moved as written. Paul seconded. Discussion. Vote 9 yes. Motion passed.

SECTION 9.20 City Treasurer read by Sandra. Paul moved as written. Jim seconded. Fred made an amendment to read appointed by the Council in the first sentence. Jack seconded. Jim suggested it to say appointed by a majority of the entire City Council. Vote on Jim's amendment 9 yes. Mike made an amendment to add in addition the Treasurer shall give quarterly reports of all investments to the City Council after State law in the next to the last sentence. Paul seconded. Discussion. Vote 5-4, Roy, Fred, Bill and Jack voted no. Amendment passed. Vote on SECTION 9.20 as amended. 9 yes.

SECTION 9.21 Borrowing Procedure read by Jack. Paul moved as written. Mike seconded. Jim made an amendment provided it is in accordance with the provision mandated in Section 9.4. Paul seconded. Discussion. Paul withdrew second. Jim withdrew amendment. Discussion. Vote 9 yes. Motion passed.

SECTION 9.22 Independent Audit read by Jim. Jim moved as written. Mike seconded. Discussion. Fred made an amendment to change 90 days to 150 days. Roy seconded. Discussion. Vote 4-5, Paul, Jack, Mike, Grant and Bill voted no. Amendment defeated. Fred would like to remove the last sentence and include in a new section. Titled Annual Report. Also add That the annual report shall include reports from all entities to which the city has provided funds, and if such reports are not forthcoming, they shall not be funded. Mike seconded. Motion to remove the last sentence. Mike seconded. Vote 9 yes. Vote on 9.22 as amended. Vote 9 yes.

SECTION 9.23 Annual Report An annual report of the City's business for the preceding year shall be made available to the public not later than 90 days after the close of the fiscal year. Such report if not forthcoming from the organization funded shall not be funded in the ensuing year. Jim seconded. Discussion. Vote 9 yes.

SECTION 9.24 Assessment of Derry Fire Budget to East Derry Fire District -- As long as the East Derry Fire District chooses to remain autonomous the members of the Derry City Council shall not assess the residents of the aforementioned district for that part of the city budget dealing directly with the Derry Fire Department. At any time that the residents of the East Derry Fire District so choose to dissolve and the provision of Section 11.6 of this charter take affect, this section shall be deemed null and void without affect to any other provisions to this charter. Roy moved as read. Paul seconded. Discussion. 8-1 Fred voted no. Motion passed.

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5

Roy has come up with definitions to be discussed at the next meeting and Section 11. Meeting will last until we are finished.

Fred met with the Historic District Commission and asked for a name change to Heritage Commission. Fred determined that there is no need to have the Historic District Commission mentioned in the charter. It is a local option board. If the Charter Commission wants to keep it there, Fred worked out a different set of words for the Heritage Commission, replacing the Historic District Commission. Chair asked for copies for next meeting.

Jim moved to adjourn.

Meeting adjourned at 9:15 p.m.

R.F./C.G.

cc min #17

SECTION 1.1. Incorporation

The inhabitants of the City of Derry shall continue as a body politic and corporate under the name of the "City of Derry" and as such to enjoy all the rights, immunities, powers and privileges and be subject to all the duties and liabilities now pertaining to or incumbent upon them as a municipal corporation. All existing debts and obligations shall remain obligations upon the City under this Charter.

SECTION 1.2. City Council Form of Government

Except as otherwise provided in this Charter, all powers of the City shall be vested in a City Council.

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DERRY CHARTER

PURPOSE

The purpose of this Charter is to exercise the home rule power recognized under Part One, Article 39 of the Constitution of the State of New Hampshire, consistent with the general laws of the State.

ARTICLE 1

INCORPORATION; CITY COUNCIL FORM OF GOVERNMENT; POWERS

SECTION 1.1 Incorporation

The inhabitants of the City of Derry shall continue to be a body politic and corporate under the name of the "City of Derry" and as such to enjoy all the rights, immunities, powers and privileges and be subject to all the duties and liabilities now appertaining to or incumbent upon them as a municipal corporation. All existing debts and obligations shall remain obligatory upon the City under this Charter.

SECTION 1.2 City Council Form of Government

Except as otherwise provided in this Charter, all powers of the City shall be vested in a City Council.

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SECTION 1.3 Construction

The powers conferred under this Charter are to be construed liberally in favor of the City, and the specific mention of particular powers is not intended to limit in any way the general powers of the City as stated in Section 1.1.

SECTION 1.4 Intergovernmental Relations

Subject only to express limitations in the provisions of the New Hampshire Statutes, the City may exercise any of its powers or perform any of its functions under this Charter and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of New Hampshire or any political subdivision or agency thereof, or the United States of America or any agency thereof.

SECTION 1.5 Districts

The City shall be divided into 4 Districts, consisting of a single ward, for the purpose of electing City Councilors from such Districts. The boundaries of the presently established Districts shall remain as drawn until boundaries are redrawn by the City Council based on the decennial Census of the United States. So far as reasonably fair and practicable, all Districts shall be equal in population. The City Council shall, if necessary, adjust and establish new boundaries based on decennial Census data. The City Council may establish its own rules and

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procedures governing the conduct of redistricting. However, the City Council shall hold at least one public hearing concerning new District boundaries.

SECTION 1.6 Wards

The City of Derry shall be composed of a single ward, and, except as herein otherwise provided, the general laws relative to wards of cities, officers thereof, voters, checklists, elections, and jurors therein shall be applicable to such ward.

ARTICLE 2

ELECTIONS; ELECTION OFFICERS; CONDUCT OF ELECTIONS

SECTION 2.1 Composition of Board of Election Officers

The Supervisors of the Checklist, the Ward Moderator and the Ward Clerk shall constitute the Board of Election Officers. The Ward Moderator shall be the Chairman. The Ward Clerk shall serve as the Clerk of the Board.

SECTION 2.2 Moderator

There shall be a Ward Moderator who shall have all the powers and duties granted by this Charter and State law. The Moderator shall be elected at large at the regular City election for a term of 2 years. The Moderator shall have the power to appoint all

election officials except those which this Charter or State law requires to be elected or otherwise appointed. The Moderator shall determine whether all ballots from all polling places are to be counted in one or more locations. Vacancies in the office of Moderator shall be filled pursuant to State law.

SECTION 2.3 Supervisors of the Checklist

(A) There shall be 3 Supervisors of the Checklist who shall hold office for 6 years (and until their successors are elected and qualified), elected on a staggered basis so that one Supervisor is elected every two years.

(B) Vacancies among the Supervisors of the Checklist shall be filled pursuant to State law. The person so appointed shall hold office until the vacancy for the unexpired term is filled at the next regular City election.

(C) The Supervisors of the Checklist shall elect a chairman for a term of 2 years.

SECTION 2.4 Duties of the Supervisors of the Checklist

The Supervisors of the Checklist shall have such powers and duties as are specified under State law, and shall perform all duties pertaining to the office of ward selectmen, and for all

purposes requiring such officers, shall be deemed selectmen of the ward.

SECTION 2.5 Conduct of Elections

(A) The election officers, whose duty it is to conduct regular and special elections, shall conduct City elections in accordance with State law. All elected City officers shall be elected by use of the Non-Partisan Ballot System established by State law.

(B) The regular City election shall be held on the Tuesday immediately following the second Monday in November and that these elections should be held on an annual basis. The City Council shall by ordinance establish other election dates, polling places and balloting hours.

(C) Persons who would be qualified under State law to vote in a biennial election in the City if held on the day of a City election, shall be qualified to vote in the City election.

(D) The filing period for candidates to be placed on the ballot for City elections shall be 10 days, beginning on the seventh Wednesday before the City election. A filing fee of one dollar will be charged unless a candidate files petitions complying with State law and requesting that the candidate's name be printed on the ballot.

SECTION 2.6 Preparation of Ballots

The Ward Clerk shall prepare separate ballots to be used at all local referenda and at elections at which City officers are chosen. The ballots shall contain in appropriate sections the names of all candidates in such order as permitted by State law, without party designation. Below the list of names of the candidates of each office, there shall be as many blank spaces as there are offices to be filled at the election. No titles, military, professional or otherwise, shall accompany the name of any candidate on the ballot. The names and residence of candidates for the same office shall be printed on the ballot in the order in which they may be drawn by the ward clerk whose duty it shall be to make such drawing and to give each candidate an opportunity to be present, thereat, personally or by one representative.

SECTION 2.7 Preservation of Ballots

All the ballots cast at each election shall be preserved, maintained, and sealed as required by State law.

SECTION 2.8 Contested Elections

(A) Any person for whom a vote was cast and recorded for any office at a city election may, before the expiration of 3 days after the date of the election, apply in writing to the Ward

Clerk for a recount of the ballots cast for such office and shall pay to the City Collector the fee authorized by State law, for the use of the City. The Ward Clerk shall appoint a time for the recount not earlier than 5 days and not later than 10 days after the receipt of the application. If a recount is requested for a City office, no person shall assume that office until the recount is completed.

(B) The recount shall be conducted by the Board of Election Officers acting as a Board of Recount, in compliance with State law. The Board shall determine the results of any recount. Decisions of the Board in cases of contested elections shall be final.

(C) Tied elections for any elected City office shall be determined by lot in a manner decided by the Ward Clerk in the presence of the candidates who are tied, if upon notice from the Clerk they elect to be present.

(D) If any 10 voters of the City shall, before the expiration of 7 days after the date of the regular City election or special election, apply in writing to the Ward Clerk for a recount of the votes on any ballot question affecting the City only, the Clerk shall appoint a time and place for the recount, not earlier than 5 days nor later than 10 days after receipt of the application.

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The recount shall be conducted in accordance with State law.

Applicants shall pay to the City Collector, for use of the City, the appropriate fee as established by State law.

SECTION 2.9 Certification of Election and Appointment

(A) Written notice of election or appointment to any City office or board shall be mailed by the City Clerk to the person elected or appointed, within 48 hours after the appointment is made or the results of any vote are certified to the City Council by the Board of Election Officers. If, within 10 days from the date of the notice, such person shall not take, subscribe to and file with the City Clerk an oath of office, such neglect shall be deemed a refusal to serve and the office shall be deemed vacant, unless the City Council shall extend the time in which such person may qualify.

(B) The removal from office in accordance with this Charter, with or without cause, of a person elected or appointed or otherwise chosen for a fixed term, shall give no right of action for breach of contract.

(C) Except as otherwise provided by law, before entering upon the duties of office, every person elected or appointed to City office shall take and subscribe to an oath of office as prescribed by law, which shall be filed and kept in the office of

the City Clerk. Any oath required by this section may be administered by any officer qualified by law to administer oaths.

(D) All elected City officials shall take office at the first working day of January following their election and shall hold office until their successors are duly elected and qualified.

ARTICLE 3

PETITIONS: FREE; INITIATIVE; REFERENDUM

SECTION 3.1 Free Petition

(A) Individual Petitions, Action Discretionary. The City Council shall receive all petitions which are addressed to them and signed by a registered voter and may, in their discretion, take such action in regard to such petitions as they deem necessary and appropriate.

(B) Group Petitions, Action Required. The City Council shall hold a public hearing and act by taking a vote on the merits of every petition which is addressed to it and which is signed by at least 25 registered voters. The hearing shall be held by the City Council, or by a committee or subcommittee thereof, and the action by the City Council shall be taken not later than 60 days after the petition is filed with the City Clerk. Hearings on two

or more petitions filed under this section may be held at the same time and place. "The City Clerk shall mail notice of the hearing to 10 petitioners whose names first appear on each petition at least 7 days before the hearing. Notice shall be given by publication of a summary of the contents of a petition at least 7 days prior to all such hearings, at public expense. No hearing shall be held upon more than one petition containing the same subject matter in any 12-month period. No hearing or action by the City Council under this section shall be required in the case of any petition to suspend the implementation of an ordinance, adopting a budget, or enacting a land use regulation.

SECTION 3.2 Initiative Petition

(A) Commencement of Proceedings. Initiative procedures shall be started by the filing of an initiative petition with the City Clerk. The petition shall be addressed to the City Council, shall contain a request for passage of a particular measure set forth in the petition, and shall be signed by no less than 20 percent of the total number of votes cast in the last regular City election.

Signatures to an initiative petition need not be all in one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the City Clerk as one instrument, with the endorsement thereon of the names and addresses of the persons designated as filing the same.

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With each signature to the petition shall be stated the place of residence of the signer, giving the street and number, if any.

Within 7 days after the filing of an initiative petition, the City Clerk shall ascertain by what number of registered voters the petition is signed, and what percentage that number is of the total number of votes cast in the last regular City election, and shall attach thereto a certificate showing the result of such examination.

The City Clerk shall forthwith transmit the certificate with the petition to the City Council and at the same time shall send a copy of the certificate to the first person designated on the petition as filing the same.

When such certificate establishes that the petition appears to have been signed by the requisite number of registered voters, the petition shall be deemed to contain requisite signatures unless written objections are made with regard to the signatures thereon by a registered voter within 7 days after such certificate has been issued, by filing such objections with the City Council and a copy thereof with the City Clerk. The validity of any such objection shall be determined by the City Council at their next regular meeting.

(B) Requirements for Passage and Submission to Electorate. If the City Council determines that the petition contains the

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requisite signatures of registered voters, and if in the opinion of the City attorney the petitioned initiative measure may lawfully be passed by the City Council, the City Council shall within 20 days after the petition has been finally determined to be sufficient: (1) pass the measure without alteration; or, (2) schedule a special City election to be held on a date not less than 30 nor more than 60 days thereafter, and submit the measure without alteration to a vote at that election. However, if any other City election is to occur within 60 days after the petition has finally been determined to be sufficient, the City Council may omit a special election and submit the measure to a vote at such other City election.

The ballot presenting an initiative measure shall state the nature of the measure in terms sufficient to communicate the substance thereof. The question shall be whether the initiative measure should be adopted.

SECTION 3.3 Referendum Petitions

(A) Commencement of Proceedings. Referendum petitions must be filed with the City Clerk within 30 days after adoption by the City Council of the measure or part thereof protested by the petition. Referendum petitions shall identify specifically the measure or part thereof protested and must be signed by no less than 20 percent of the total number of votes cast in the last regular City election. The procedures of Section 3.2 (A) shall

apply to referendum petitions except that the words "measure or part thereof protested" shall, for this purpose, replace the word "measure" in the said section whenever it may occur, and the word "referendum" shall replace the word "initiative" in said section.

(B) Suspension of Effect of Measure or Part Thereof Protested.

When a referendum petition is filed with the City Clerk, the measure or part thereof protested shall be suspended from taking effect, except for emergency ordinances adopted under Section 6.3 of this Charter or ordinances adopting a budget or land use regulation, which shall not be subject to suspension. Such suspension shall terminate when:

1. There is a final determination of insufficiency of the petition; or

2. 30 days have elapsed after a vote of the City on the measure or part thereof protested.

(C) Action on Petition. When a referendum petition has been finally determined to be sufficient, the City Council shall reconsider the protested measure or part thereof by voting whether to repeal it. If the City Council fails to repeal the protested measure or part thereof within 30 days after the day the petition was finally declared sufficient, the City Council shall submit the protested measure or part thereof to a vote of the City at a special City election to be held on a date fixed by

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the City Council. Such special election shall be held not less than 30 nor more than 60 days after the City Council's vote on repeal. However, if any other City election is to occur within 60 days after the City Council's vote on repeal, the City Council's may omit a special election and submit the protested measure or part thereof to a vote at such other City election.

The ballot presenting a referendum measure under this section shall state the nature of the protested measure or part thereof in terms sufficient to communicate its substance. The question shall be whether the referendum measure should be repealed.

SECTION 3.4 Submission of Proposed Measure to Voters.

The City Council may, on its own motion, submit any proposed measure, or a proposition for the repeal or amendment of any measure, to a vote of the City at a regular or special City election in the same manner and with the same force and effect as provided by this Charter for submission of initiative or referendum measures.

SECTION 3.5 Measures with Conflicting Provisions.

If two or more initiative or proposed measures passed at the same City election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

ARTICLE 4

JUDICIAL AND ADMINISTRATIVE BOARDS

SECTION 4.1 Boards of Trustees

(A) Derry Public Library Trustees. There shall be a board of 7 Trustees of the Derry Public Library who shall be elected at the regular City election for terms of 3 years, staggered so that no more than 3 Trustees are elected at one time. Vacancies shall be filled by appointment by the City Council for the unexpired term.

(B) Taylor Library Trustees. There shall be a board of 5 Trustees of the Taylor Library who shall be elected at the regular City election for terms of 3 years, staggered so that no more than 2 Trustees are elected at one time. Vacancies shall be filled by appointment by the City Council for the unexpired term.

(C) Trustees of the Trust Fund. There shall be a board of 3 Trustees of Trust Fund whose powers and duties are provided by State law. Trustees of the Trust Fund shall be appointed by the City Council for a term of 3 years, one Trustee to be appointed each year. Vacancies shall be filled by appointment by the City Council for the unexpired term. A final report of the Trust

Funds shall be submitted to the City Council within 30 days following the close of the fiscal year.

SECTION 4.2 Administrative Boards.

(A) Planning Board. There shall be a Planning Board, whose powers and duties are provided by State law. The Planning Board shall consist of 9 members, of whom 6 are appointed and 3 are ex officio. The 6 appointed members shall be appointed by the City Council for terms of 3 years, except that initial appointments shall be staggered so that no more than 2 appointed members shall have terms that expire in a single year; a vacancy occurring before the end of a term shall be filled for the unexpired term. The 3 ex officio members shall consist of the City Manager or designee, an administrative officer of the City designated by the Manager, and a City Councilor designated by the City Council for a one year term. There shall also be 3 alternate appointed members appointed in the same way as regular appointed members, except no more than one alternate appointed member's term shall expire in a single year.

(B) Housing and Redevelopment Authority. There shall be a Housing and Redevelopment Authority whose powers and duties are provided by State law. The Authority shall consist of 5 members appointed by the City Council for terms of 5 years, except that initial appointments shall be staggered so that no more than one

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member's term shall expire in a single year. Vacancies shall be filled for the unexpired term.

(C) Conservation Commission. There shall be a Conservation Commission whose powers and duties are provided by State law. The Commission shall consist of 5 members appointed by the City Council for terms of 3 years, except that initial terms shall be staggered so that no more than 2 members shall have terms that expire in a single year. Vacancies shall be filled for the unexpired term. 3 alternate members shall be appointed in like manner, except that no more than one alternate member's term shall expire in a single year. ~~here, except that no more than two alternate member's term shall expire in a single year, and the~~

(D) Historic District Commission. There shall be a Historic District Commission whose powers and duties are provided by State law. The Commission shall consist of 5 regular members. 3 regular members shall be appointed by the City Council for 3 year terms except that initial appointments shall be staggered so that no more than one member's term shall expire in a single year. One regular member shall be a City Councilor, designated by the City Council for a term of one year. One regular member shall be an appointed member of the Planning Board designated by the Planning Board for a term of one year. In addition to regular members there shall be 2 alternate members, appointed by the City Council for terms of 3 years, with terms staggered as in the case

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of regular members. Vacancies shall be filled for the unexpired term.

SECTION 4.3 Judicial Boards

Zoning Board of Adjustment.

There shall be a Zoning Board of Adjustment whose powers and duties are provided by State law. The Board shall consist of 5 regular members appointed by the City Council for 3 year terms, except that initial appointments shall be staggered so that no more than 2 members shall have terms that expire in a single year. In addition, there shall be 5 alternate members, appointed in the same way as regular members, except that no more than two alternate member's term shall expire in a single year, and the terms of alternate members shall be 3 years. Vacancies shall be filled for the unexpired term.

SECTION 4.4 Terms of Office

The terms of office of all members of appointed boards shall begin on April 1 and end on March 31.

SECTION 4.5 Certain Vacancies

(A) Unless otherwise provided in this Charter, in the event of a vacancy in an elected office, the City Council shall fill the vacancy by appointment until the next regular City election, at

which time the vacancy shall be filled by election for the remainder of the unexpired term..

(B) 'Unless otherwise provided in this Charter, vacancies of regular members of appointed boards, commissions or committees shall, be filled by available alternate members selected by City Council for the unexpired term.

SECTION 4.6 Other Administrative Committees

Other administrative boards and committees may be established as necessary by the City Council.

SECTION 4.7 Board Membership Restriction

No member or alternate member of any appointed or elected board of the City shall serve on any other appointed or elected board of the City, except for ex officio members.

SECTION 4.8 Meetings with City Council and City Manager

The City Council and the City Manager shall meet during the month of July, and more often if City affairs so warrant, with the Chairmen of all standing city committees and boards to review significant actions taken by the committees, projects currently under discussion, and anticipated activity for the coming year.

ARTICLE 5

THE GOVERNING AND LEGISLATIVE BODY

Section 5.1/ The City Council

Except as otherwise provided by this Charter, the governing and legislative body of the City shall be a City Council exercising all powers authorized by State law. The City Council shall consist of 9 councilors, of whom there shall be 5 at large, 4 from each district to be elected at large and 1 at large to be elected at large, and 1 district councilor to be elected from each district.

Section 5.2 - Terms of Office

The term of office for members of the City Council shall be for two years, or until the election and qualification of their successors.

Section 5.3 Qualification for Office as City Councilor

To be eligible for election to the office of City Councilor, a candidate must be 18 years of age, be a resident of the City for at least one calendar year before the election, and in the case of a District Councilor, be a resident of the District to be represented. If a Councilor or any elected official of the City moves from the City, or from the District in the case of a District Councilor, and establishes a domicile in some other

place, the office shall be declared vacant and shall be filled as provided for by this Charter.

SECTION 5.4 Selection of Mayor and Vice Mayor

The Council shall, by the affirmative vote of a majority of all its members, at its first regular meeting in January, choose one of its members Mayor for a term of one year. The Council shall choose one of its members Vice Mayor, for a term of one year, who shall act in the absence or disability of the Mayor. In the event of a vacancy occurring in the office of Mayor, the Council shall choose one of its members Mayor at the next regular meeting to serve for the unexpired term. The Mayor shall be the official head of the City for all ceremonial purposes, shall preside at all meetings of the Council and may speak and vote at such meetings.

SECTION 5.5 Election of Councilors

All City Councilors shall be elected for terms of 2 years, On the even numbered years, the district councilors as well as the councilor at large from at large will be elected, and on the odd numbered years the 4 district councilors, one from each district, ~~are~~ ^{are} to be elected at large.

SECTION 5.6 Removal of Councilors

The City Council may, on specific charges and after due notice and hearing, at any time remove one of its own members for cause, including but not limited to prolonged absence from or other inattention to duties, crime or misconduct in office, or as specified in this Charter.

SECTION 5.7 Filling of City Council Vacancies

In case a vacancy occurs in the City Council for any reason, the remaining City Councilors shall appoint the one who received the next highest vote from within the appropriate district to serve until the next regular City election, at which point the vacancy shall be filled by election for the remainder of the unexpired term.

The City Council shall act to fill a vacancy no later than 21 days after the vacancy has been officially declared. If such action is not taken within 21 days, the appointment shall be made by the Mayor. The person so appointed shall be sworn and commence to serve forthwith.

SECTION 5.8 Compensation; Expenses

The City Council shall establish an annual salary and expense allowance for its members, subject to the following: No increase in such salary or expense allowance shall be effective unless it shall have been adopted by a two-thirds vote of all the members

of the City Council. The new salary and expense schedule shall be included in next City budget process, and shall take effect in the fiscal period to which that budget applies. No Councilor in office at the time the new schedule is adopted shall receive any benefit of the new schedule during the remainder of the Councilor's then-current term of office.

SECTION 5.9 Rules; Meetings; Quorum

(A) The City Council shall from time to time establish rules for its proceedings. Regular meetings of the City Council shall be held at a time and place fixed by the Council but which shall be not less frequent than once monthly. Special meetings of the City Council may be held on the call of the City Manager, the Mayor, or on the call of any three or more members, by written notice delivered to the place of residence or business of each member at least 48 hours in advance of the time set. Sessions of the City Council shall be open to the public, in accordance with RSA 91-A. Every matter coming before the City Council for action shall be put to a vote, the result of which shall be duly recorded.

(B) Two thirds (2/3) of all the members of the City Council shall constitute a quorum. The affirmative vote of a majority of all the members of the City Council shall be necessary to adopt any appropriation. Except as otherwise provided by law or this

Charter, any other action or measure may be adopted by a majority vote of those present.

SECTION 5.10 / Council Staff

The clerk of the City Council shall be the City Clerk. The Clerk of the City Council or designee shall give notice of all meetings of the City Council to its members and to the public, shall keep a record of its proceedings and shall perform such duties as may be assigned by the Charter, by ordinance, or by other vote of the City Council.

SECTION 5.11 City Councilors - Incompatible Offices.

Except as otherwise provided in this Charter, members of the City Council shall not hold any other office or employment with the City. Former members of the City Council shall not be eligible for appointment as a compensated City officer or employee until one year after the expiration of their service.

ARTICLE 6

ORDINANCES

SECTION 6.1 Municipal Legislation

Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting

clause of each ordinance shall be "The City of Derry Ordains," and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded at length uniformly and permanently by the clerk of the City Council, and each ordinance so recorded shall be authenticated by the signature of the Mayor of the City Council and the Clerk of the City Council.

SECTION 6.2 Ordinances

(A) An ordinance may be introduced by any Councilor at any regular or special meeting of the City Council provided it appear on the agenda. Upon introduction of any ordinance, the Clerk of the City Council shall distribute a copy to each Councilor and to the City Administrator, shall file a reasonable number of copies in the office of the City Clerk and shall post a copy in such other public places as the Council may designate.

The full text of the proposed measure or ordinance need not be included in the notice if an adequate statement is included, describing the proposal and designating the place where the proposal is on file for public inspection.

(B) Every proposed ordinance shall be introduced in writing in the form required for final adoption. Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets

or by strikeout type, and shall indicate new matter by underscoring or by italics.

(C) After the ordinance's first reading, it shall be published in a newspaper of general circulation in the City at least once, together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage.

(D) No ordinance shall be passed finally on the date on which it is introduced, except in cases of emergency involving the health or safety of the people or their property. Every adopted ordinance, except as otherwise provided by this Charter, shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

No ordinance shall be amended or repealed except by another ordinance adopted in accordance with this Charter, or as provided in the initiative and referendum procedures of this Charter.

(E) The City Council shall have in place an administrative code or ordinance within twelve months of the passage of this charter.

SECTION 6.3 Emergency Ordinances

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally. A preamble which declares

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and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of all the members of City Council.

Action on an emergency ordinance shall be taken without amendment at the meeting at which the ordinance is introduced. No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency ordinance and except as provided by law relating to utility lines, no such grant, renewal or extension shall be made otherwise than by the regular procedure established for ordinances. After its adoption, an emergency ordinance shall be published as prescribed for other adopted ordinances. It shall become effective upon adoption or at such time as it may specify.

SECTION 6.4 Codification of Ordinances

Not later than 18 months after taking office under this Charter and at least every fifth year thereafter, the City Council shall have prepared a revision or codification of the ordinances of the City which are appropriate for continuation as local laws of the City.

SECTION 6.5 Existing Ordinances

All by-laws, ordinances, rules, restrictions and regulations of the City of Derry which are in effect as of the effective date of

this Charter, and are not inconsistent with this Charter, shall remain in effect after the adoption of this Charter until they expire by their terms or are repealed, modified or amended by the Council.

SECTION 6.6 Charter Objection

On the first occasion that the question on adoption of a measure is put to the City Council, if a single Councilor objects to the taking of the vote, the vote shall be postponed until the next meeting of the City Council whether regular or special. If 2 or more other Councilors shall join in the objection, such postponement shall be until the next regular meeting. This procedure shall not be used more than once for any agenda item. Any item once postponed shall not be further postponed under this section. The Charter objection privilege is not available with respect to an emergency ordinance.

ARTICLE 7

GENERAL POWERS

SECTION 7.1 General Powers of the City Council

(A) Subject to the provisions of this Charter, as the elected body serving as the legislative and governing body of the City, the City Council shall exercise all the powers and duties of

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selectmen, city councils and boards of aldermen and such other powers and duties provided by State statute or the Constitution of the State of New Hampshire.

(B) Without limiting the generality of the preceding subsection, the City Council shall also exercise the powers conferred by law on annual or special meetings of the Derry Cooperative School District to determine and appropriate the total amount of money to be spent by the School District, as well as authority conferred by law on legislative bodies of school districts to approve cost items associated with collective bargaining agreements. The power to elect members of the Derry Cooperative School District Board of Education and the power to determine the size of the School District Board in accordance with law shall be exercised by the qualified voters of Derry. Except as specifically provided herein, the administration of all fiscal and prudential affairs of the School District, the direction of School District policy, the general management and control of District schools and properties, line item control over the School District budget and all other powers prescribed by law in relation to School District matters shall remain vested in the School District Board. The district meeting of the Derry Cooperative School District is hereby abolished.

(C) Except as otherwise provided by State law or this Charter, the powers of the City Council may be exercised in a manner determined by it.

SECTION 7.2 Regulation of Fees and Other Charges

In accordance with State law, the Administrative Code and this Charter, the City Council shall approve and regulate all fees and charges, whether for reclamation, impact, use, permits or any other charges that may be made by any department or agency, for the use of the facilities or services of the City.

SECTION 7.3 Delegation of Powers

The City Council may delegate to one or more City agencies the powers to grant and issue licenses and permits vested in the City Council by State law, and may regulate the granting and issuing of licenses and permits by any such City agency. The City Council may in its discretion, rescind any such delegation without prejudice to any prior action taken on such licenses or permits.

SECTION 7.4 Inquiries and Investigations

The City Council may require any elected or appointed City officer or employee, any official appointed or confirmed by the Council, or any member of an elected City board or elected City commission to appear before it and to give such information as

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the City Council may require in relation to such person's office, function or performance. The City Council shall give at least 48 hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section.

The City Council may make investigations into the affairs of the City and into the conduct of any City agency, and for this purpose may administer oaths and require the production of evidence.

ARTICLE 8

ADMINISTRATION OF GOVERNMENT

SECTION 8.1 City Manager

The chief administrative officer of the City shall be the City Manager (hereinafter called the "Manager"). The Manager shall be appointed by the City Council upon the affirmative vote of at least 6 members of the Council. The Manager shall hold office at the pleasure of the City Council. The City Council shall fix the Manager's salary and terms of employment.

SECTION 8.2 Qualifications

The Manager shall be appointed solely on the basis of qualification for the office, with special reference to

education, training and previous experience in public or private office. The Manager need not be a resident of the Town or of the State of New Hampshire at the time of appointment. The Manager shall devote full time to the office and shall not hold any other public office nor engage in any other business or occupation unless with the approval of two-thirds of the City Council.

SECTION 8.3 Evaluation of Manager's Performance

During the budgetary process following the first anniversary of the Manager's service to the City and during each subsequent budgetary process, the City Council shall conduct an evaluation of the Manager's performance in office. After such evaluation, the City Council shall determine whether the Manager's overall performance in office has been satisfactory or unsatisfactory. The City Council shall also establish the Manager's compensation for the ensuing year.

SECTION 8.4 Removal of Manager

(A) The Manager may be removed by a majority vote of all members of the City Council as herein provided. The City Council shall adopt a resolution stating its intention to remove the Manager and the reasons therefor, a copy of which shall be served on the Manager. Immediately upon delivery to the Manager of the resolution stating the intent of the City Council, the Manager shall be relieved of office and all further duties.

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(B) The Manager may reply thereto in writing within 10 days, and upon request, shall be afforded a hearing, public or non-public, which shall occur not earlier than 10 days nor later than 15 days after such hearing is requested. After the hearing, public or non-public, if one is requested, and after full consideration, the City Council, by majority vote of all its members, may adopt a final resolution of removal. The Manager shall continue to receive full salary until the final resolution of removal which shall be made no later than 7 days following the public or non-public hearing. The action of the City Council in removing the Manager shall be final.

During the period between adoption of a resolution under Paragraph (A) of this section and final action under Paragraph (B), the City Council shall, by majority vote of all its members, appoint an interim Manager to serve at the will of the City Council for not more than 90 days. If a final resolution of removal is not adopted, the Manager shall resume office forthwith.

SECTION 8.5 Acting City Manager

(A) Whenever by reason of sickness, absence from the city or other unexpected cause, the City Manager shall be unable to perform the duties of the office for a period of 3 successive working days or more, the City Council shall appoint an Acting City Manager.

(B) The Acting Manager shall have all the powers and perform all the duties of the Manager except to the extent that said powers and duties may be specifically restricted by City Council resolution. The Acting Manager shall be paid such salary for services hereunder as may be prescribed by the City Council.

SECTION 8.6 Powers and Duties of Manager

(A) The Manager shall be the chief administrative officer of the City, shall supervise and be responsible for the administrative and financial affairs of the City and shall carry out the policies enacted by the Council. The Manager shall be charged with the preservation of the health, safety, and welfare of persons and property and shall see to the enforcement of the ordinances of the City, this Charter and general State laws governing administration of the City. The Manager shall supervise and direct the administration of all City departments and personnel therein.

(B) Except as otherwise provided by this Charter, the Manager shall appoint upon merit and fitness alone, and may remove all officers and employees of the City, subject to the provisions of pertinent statutes and the Administrative Code. Appointment of officers and employees who report directly to the City Manager shall be subject to confirmation by majority vote of the City Council.

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(C) The Manager shall fix the compensation of all City officers and employees appointed by the Manager, within the limits established by existing appropriations.

(D) The Manager shall have full jurisdiction over the rental and use of all City facilities under the Manager's control. The Manager shall be responsible for the maintenance and repair of all City property under the Manager's control, within the limits of existing appropriation.

(E) The Manager shall keep a full and complete inventory of all property of the City, both real and personal.

(F) The Manager shall be responsible for purchasing all supplies, material and equipment for all departments and activities of the City.

(G) The Manager shall keep the City Council informed of the needs of the City, and make such reports and recommendations as the Manager may deem advisable or as the Council, as provided by this Charter or by ordinance, shall direct.

(H) The Manager shall have and perform such other powers and duties not inconsistent with the provisions of this Charter as

now are, or may be, conferred or imposed upon the Manager by ordinance, or by general State laws. The Manager shall have the right to take part in the discussion of all matters before the City Council, but not the right to vote.

(1) The manager shall have no authority with respect to the affairs of the Derry Coperative School District, other than to direct that at the time specified in accordance with Section 9.2, the detail of expenditures proposed by the School District shall be presented to the Manager for inclusion in the proposed budget to be submitted to the City Council.

SECTION 8.7 Non-interference by Individual Members of the City Council

The City Council shall act in all matters as a body. Members of the Council shall not seek individually to influence the official acts of the City Manager, or any other officers; or to direct or request, except in writing, the appointment of any person to, or removal from, office; or to interfere in any way with the performance by such officers of their duties. Any member of the City Council violating the provisions of this section, as determined through procedures established in this Charter, shall forfeit the office.

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SECTION 8.8 Appointive Officers

(A) There shall be appointed by the Manager, subject to confirmation by majority vote of the entire City Council, a city clerk (who shall also perform the duties of a ward clerk established by State law), a police chief, a fire chief, a health officer, one or more assessors, city attorney, a tax collector and such other officers as may be necessary to administer all departments which this Charter and the City Council shall establish. Assessors shall, prior to appointment, have demonstrated knowledge of property appraisal or assessment and of the laws governing the assessment and collection of property taxes. The powers and duties of appointed officers and heads of departments shall be those prescribed by state law, by the Charter or by ordinance.

(B) The City Council may engage as needed such other attorneys as are deemed in the best interest of the City or to provide legal advice to the City Council.

SECTION 8.9 Departments; Administrative Code

The City shall have departments, divisions, boards or committees as may be established by this Charter or as the City Council may establish by ordinance. It shall be the duty of the Manager to draft and to submit to the City Council within 9 months after assuming office, an ordinance consistent with this Charter to be

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titled as the "Administrative Code", which provides for the division of the administrative service of the City into departments or agencies and defines the functions and duties of each.

The ordinance shall include, subject to any collective bargaining agreements that may be agreed upon, provisions for a merit plan to ensure that all appointments and promotions in the service of the City shall be made solely on the basis of merit and only after appropriate examination or review of the applicants' relative knowledge, skills, abilities and experience and provisions governing discipline and dismissal of personnel.

Subsequent to the adoption of such ordinance, upon recommendation of the Manager, the City Council by ordinance may amend it to create, consolidate or abolish departments, agencies or other divisions of the City, define the functions and duties of each, or otherwise amend it.

The chief officer of each department shall have supervision and control of such department and shall have the power to prescribe rules and regulations for the conduct of such department, not inconsistent with general law, this Charter, the Administrative Code, and the provisions of the merit plan. Prior to adoption of the Administrative Code, the Manager shall have the power to establish temporary rules and regulations to ensure economy and efficiency in the several divisions of City government.

ARTICLE 9

FINANCE

SECTION 9.1 Fiscal Year

The fiscal year of the City shall begin July 1 and run through the subsequent June 30 in each year.

SECTION 9.2 Preparation of Budget

The preparation of the fiscal budget of the City shall begin at such time as specified by the Manager, or as directed by the Administrative Code. The chief officer or director of each department shall submit to the Manager an itemized estimate of the expenditures for the next fiscal year for the department or activities under the officer's control. In presenting the budget to the City Council, the Manager shall also include a detailed report of estimated revenues other than those to be derived from real estate taxes, paying particular attention to departments or activities that are self-sustaining.

SECTION 9.3 Limitation on Budget Increases

(A) Recognizing that the final tax rates for the City of Derry are set by the New Hampshire Department of Revenue Administration pursuant to RSA 21-J:35(1), the mayor, the city council, and all departments in the City of Derry including, but not limited to, the Managers office, mayors office, councillors office, legal

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department, school district, police department, fire department, highway department, and any other organization receiving funds from the city, shall prepare their annual budget proposals and the mayor and city council shall act upon such proposals in accordance with the mandates in this section.

In establishing a combined annual municipal budget for the next fiscal year, the mayor, city council and manager shall consider total expenditures not to exceed an amount equal to the combined annual budget of the current fiscal year, increased by a factor equal to the average of the Consumer Price Index-Urban (CPI) of the three (3) calendar years immediately preceding budget adoption as published by the US Bureau of Labor Statistics.

This provision shall not prevent the mayor, city council and manager from establishing a combined annual municipal budget below this limit.

This provision shall not prevent the mayor, city council, and manager from appropriately funding any programs or accounts mandated to be paid from municipal funds by state and federal law.

(B) Growth Index A composite growth index for the City of Derry shall be computed using the following indicators:

34% of the change in the daily public school attendance (also known as the ADMR* available from the NH Department of Education or its successor.)

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33% of the change in the city's net assessed valuation (the unequalized taxable value used to calculate the local tax rate) due to new construction, exclusive of improvements to previously assessed residential property of any type (Available from the Derry Assessors office or its successor.)

33% of the change in the city's average annual public and private wages, adjusted for inflation (Available from the NH Department of Employment Security or its successor.)

The average change of each indicator shall be computed from data available for the two (2) years most closely preceding budget adoption. A summation, from all indicators, resulting in negative value shall be considered zero (0%).

The growth index shall be added to the average change in the Consumer Price index-Urban (CPU) of section (A), in establishing a spending limit for the combined annual municipal budget for the next fiscal year.

*ADMR= Average Daily Membership Resident

SECTION 9.4 Exception to Budget Limitation

The total or any part of principal and interest payments of any municipal bond, whether established for school or municipal purposes, may be exempted from the limitation defined in section 9.3A upon an affirmative vote of two-thirds of the members of the city council. This decision shall be made annually.

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In addition, capital expenditures deemed necessary by the mayor, city council, and manager may be exempt from the limitation defined in section 9.3A, upon an affirmative vote of two-thirds of the members of the city council.

SECTION 9.5 Reserve Fund

In the event actual property tax collections and/or revenues exceed the budget allocation prescribed in section 9.3, plus additional expenditures authorized pursuant to section 9.4, such excess funds shall be deposited in a reserve account specifically established for the purpose.

These funds shall be drawn upon as a contingent revenue source in succeeding fiscal years, to offset a part of the budget estimated otherwise having to be funded by property taxes, or for any other municipal budget purposes, or to meet federal and state mandates or for unanticipated emergency expenses, or as a property tax credit, upon an affirmation vote of two-thirds of the members of the city council.

SECTION 9.6 Deficit Budget Control

The actual annual municipal budget shall not incur a deficit, wherein total spending exceeds total income during the fiscal year. If the total actual and projected income from all sources, including property taxes municipal, county, state and federal revenues, and transferred from the reserve fund established

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pursuant to section 9.5, during the fiscal years fails to meet actual and projected expenditures for the remaining part of that fiscal year, an automatic, equal and immediate across-the-board percentile cut shall be instituted in the annual budget of every city department cited in section 9.3A. The city treasurer shall determine the status of actual and projected income vs. expenditures for this purposes, and determine the requisite numeric percentile cut. The city council upon notification by the city treasurer shall then order the cut.

This cut may be exempted or adjusted upon an affirmative vote of three-fourths of the members of the city council.

This provision shall not prevent the mayor, city council, and manager from appropriately funding any program or accounts mandated to be paid from municipal funds by state and federal law.

SECTION 9.7 Submission of Budget; Budget Message

(A) By April 1 the Manager shall submit to the Clerk of the City Council a proposed budget for the ensuing fiscal year which shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year, an accompanying budget message and supporting documents, including the estimated effect of the proposed budget on the tax rate. The manager shall include in the proposed budget, without change, the school budget proposed by the Derry Cooperative School District.

(B) The message of the Manager shall explain the budget for all City agencies both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, indicate any major changes from the current fiscal year in financial policies, expenditures and revenues, together with the reasons for such changes; summarize the City's debt position and include such other material as the Manager deems desirable or the City Council may reasonably require.

SECTION 9.8 Action on the Budget

(A) Public Hearing. The City Council shall publish in one or more newspapers of general circulation in the City a general summary of the proposed budget as submitted by the Manager with a notice stating: (1) the times and places where copies of the proposed budget are available for inspection by the public and (2) the date, time and place not less than 2 weeks after such publication, when a public hearing on the proposed budget will be held by the City Council.

(B) Adoption. The City Council shall enact the budget, with or without amendments, by May 31. In amending the budget, it may delete, decrease, increase or add any programs or amounts, except it may not decrease expenditures required by law or for debt

service provided it shall be in accordance with Section 9.3 A and B.

If the City Council fails to take action with respect to the budget by May 31, such budget shall, without any action by the City Council, be deemed to have been adopted, and shall be available for the purposes specified provided it is in accordance with Section 9.3 A and B..

SECTION 9.9 Quarterly Budget Reports

At the second meeting of each quarter of the fiscal year, and more often if required by the City Council, the Manager or designee shall submit to the City Council data showing the state of the City's financial affairs. The Manager shall, at the City Council's second regular meeting, in the quarterly period, using the same data furnished to the City Council, provide a report to the public that shows the relation between the estimated and actual income and expenses to date, together with outstanding indebtedness and estimated future expenses.

SECTION 9.10 Appropriations After Adoption of Budget.

No appropriation shall be made for any purpose not included in the annual budget as adopted, unless approved by a two-thirds majority of all the members of the City Council after a public hearing. The City Council shall, by resolution, designate the source of any money so appropriated.

SECTION 9.11 Transfer of Appropriations

No expenditure shall be made, and no obligation for expenditure shall be incurred, except pursuant to a duly adopted appropriation or a transfer of appropriation permitted by this section.

(A) ¹²Interdepartmental Transfers. The Manager may approve a transfer of appropriations from one budgeted account to another budgeted account within a department, provided that the transfer or transfers do not exceed 10 percent of the appropriated budget for the department for the fiscal year, that funds are available to support the transfer and that the amount to be transferred is not essential for the effective operation of the account or accounts from which the transfer is to be made. In no event shall the amount of any such transfers exceed the total of \$10,000.00 in a single department without approval of the City Council.

(B) Interdepartmental Transfers. With the approval of the City Council, the Manager may transfer any unencumbered appropriation balance or any portion thereof from one department to another.

(C) The Manager shall furnish the council a quarterly report listing all transfers made during the quarter with copies available for public review.

Not Voted

SECTION 9.12 Capital Improvements Plan

(A) The City Manager, after consultation with the Planning Board, shall prepare and submit to the City Council a capital improvements plan at least one month prior to the final date for submission of the budget. The capital improvements program shall include:

- (1) A clear summary of its contents.
- (2) A list of all capital improvements including major replacements which are proposed to be undertaken during the next 6 fiscal years, including, but not limited to, equipment, sewer and water mains or facilities, roads, sidewalks, bicycle paths or lanes, public open spaces and recreation facilities, new police or fire stations, and other new public facilities and major items of equipment, with appropriate supporting information as to the necessity for such improvements.
- (3) Cost estimates, methods of financing and recommended time schedule for each improvement.
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

(B) The capital improvements plan shall be based on a period of not less than 6 years and shall be guided by the Master Plan for the City.

(C) The foregoing information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(D) The City Council and Planning Board shall meet annually in preparation for and review of the capital improvements plan in a manner determined from time to time by the City Council.

(E) A summary of the updated capital improvements plan with estimated costs shall be included in the City report and the current year costs of the capital improvements plan shall be included in the City budget.

(F) The City Council shall publish in one or more newspapers of general circulation in the City a general summary of the capital improvements plan and a notice stating: (1) the times and places where copies of the capital improvements plan are available for inspection by the public; and (2) the date, time and place not less than 2 weeks after such publication, when a public hearing on said plan will be held by the City Council.

(G) After the public hearing and on or before 60 days prior to the start of the ensuing fiscal year, the City Council shall by resolution adopt the capital improvements plan with or without amendment, provided that each amendment must be voted separately

and that any increase in the capital improvements plan as submitted must clearly identify the method of financing proposed to accomplish the increase.

Not Voted

SECTION 9.13 Lapse of Appropriations: Special Revenue Funds

Every appropriation, except an appropriation for a capital expenditure or dedicated funds permitted by State law, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if 2 years pass without any disbursement from, or encumbrance of, the appropriation. Special Revenue Funds may be established in accordance with State law for a specific purpose only upon receiving a vote of two-thirds of all the members of the City Council.

Not Voted

SECTION 9.14 Purchasing Procedure

The Administrative Code shall establish purchasing and contract procedure, including the assignment of all responsibility for purchasing to the Manager or designee, and the combination purchasing of similar articles by separate departments. The City Council shall establish dollar limits for purchases and contracts which must be by competitive bid and shall establish the bidding

procedures. No competitive bids shall be required when purchasing through the State of New Hampshire or at the State of New Hampshire bid prices. Requirements for bids may be waived in specific instances by a two-thirds vote of the City Council. The Council shall establish dollar amounts for purchases and contracts, over which no purchases shall be made or contracts entered into without the affirmative vote of a majority of the City Council. If the City Council has voted to make a purchase or enter into a contract, the Manager shall carry out the vote of the Council and enter into such transaction on behalf of the City.

Not Voted

SECTION 9.15 Special Assessments

When it appears either by petition or Council deliberation that the cost of a public improvement should be defrayed in part or whole by special assessment upon the property especially benefitted, the City Council shall have authority to so declare by resolution. The City Council shall hold a public hearing prior to enacting any special assessment resolution. Such resolution shall state the estimated cost of the improvement, the proportion of the cost to be borne by special assessment and the proportion to be borne by City general revenues. The resolution shall designate the areas of the City or the premises on which the special assessment shall be levied and the conditions of payment of the levy. Adoption of the resolution shall require an

affirmative vote of two-thirds of all the members of the City Council.

The City Council shall prescribe by ordinance, complete special assessment procedures concerning plans and specifications estimate of costs, notices, hearings and any other matters concerning the financing of improvements by the special assessment method.

Not Voted.

SECTION 9.16 Fiscal Control

The Administrative Code shall establish procedures governing fiscal control of all City finances, including, but not limited to, a pre-audit of all authorized claims against the City before payment.

Not Voted.

SECTION 9.17 Bonding of Officials

Any City officer or employee (other than City Councilor) may be required by the Manager to give a bond for the faithful performance of the duties of the office. The Manager and all officers receiving or disbursing City funds shall be so bonded. All official bonds shall be corporate surety bonds, and the premiums thereon shall be paid by the City. Such bonds shall be filed with the City Clerk.

N.T Voted

SECTION 9.18 Investments, Trust Funds

The Trustees of Trust Funds shall invest and account for funds under their supervision in accordance with State law.

Not Voted.
SECTION 9.19 Grants, Gifts

The City Council may apply for, accept and expend monies received from the State, Federal, or other governmental units, or from private sources which become available during the fiscal year. A procedure for accounting for such monies shall be provided for in the Administrative Code. No City funds shall be expended as matching funds for such monies unless lawfully appropriated for such purpose.

Not Voted.
SECTION 9.20 City Treasurer

There shall be a Treasurer of the City, elected for a term of 3 years. The Treasurer shall have custody of all monies belonging to the City and shall pay out the same only upon orders of the Manager and the Chairman of the City Council or as otherwise authorized by State law. The Manager shall initiate and sign a document, to be co-signed by the Chairman of the Council or designee, listing payments to be made. The Manager shall attach to the document all supporting papers, as specified by the Administrative Code, authorizing the Treasurer to make payment. The Treasurer shall deposit all monies, invest excess funds and account for same as directed by this Charter, the Administrative Code, and State law. A vacancy in the office of the City

Treasurer shall be filled by appointment by the City Council for the unexpired term.

Not Voted.
SECTION 9.21 Borrowing Procedure

Subject to the applicable provisions of State law and the Administrative Code, the City Council, by resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidence of indebtedness therefor, and may pledge the full faith, credit and resources of the City for the payment of the obligation created.

Not Voted.
SECTION 9.22 Independent Audit

Independent compliance and financial audits shall be made of all accounts of the City at least annually and more frequently if deemed necessary by the City Council. Such audits shall be conducted according to auditing procedures of the American Institute of Certified Public Accountants, the National Committee on Government Accounting, and other such procedures which may be necessary under the circumstances, by certified public accountants experienced in municipal accounting. Summaries of the results of such audits, including findings and recommendations and any management letters, shall be made public. At least once every 5 years the City Council shall change auditors. An annual report of the City's business for the

preceding year shall be made available to the public not later than 90 days after the close of the fiscal year.

ARTICLE 10

GENERAL PROVISIONS

SECTION 10.1 Availability of City Records

In compliance with RSA 91-A, a copy of all ordinances, the Administrative Code or other rules and regulations adopted by any city agency, board or individual shall be filed in the office of the City Clerk and made available for review by any person requesting such information.

SECTION 10.2 Liability of City Officers and Agencies

All city officers and members of city agencies shall be deemed to be public or municipal officers or officials. The City shall indemnify any such officer or member for expenses or damages incurred in the defense or settlement of a claim against the officer or member which arose while acting in good faith within the scope of official duties or employment, but only to the extent and subject to the limitations imposed by State law.

SECTION 10.3 Prohibition

(A) No officer or employee of the City shall appear as counsel before any agency of the City of Derry.

(B) Any City officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon or otherwise participating in the transaction as a City officer or employee. Any City officer or employee who willfully conceals such interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit the office or position. In addition, the transaction shall be voidable by the City Council if the person contracting with or making a sale to the City has knowledge that this section has been violated.

(C) Activities Prohibited

1. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.

2. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

3. No person who seeks appointment or promotion with respect to any City position or appointive City office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with any test, appointment, proposed appointment, promotion or proposed promotion.

4. No person who runs for City office shall solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive City position.

SECTION 10.4 Severability

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of this Charter or any of its provisions to any person or circumstance is held invalid, the application of this

Charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 10.5 Specific Provisions Shall Prevail

To the extent that any specific provision of this Charter conflicts with any provision expressed in this Charter in general terms, the specific provision shall prevail.

SECTION 10.6 Procedures

(A) Meetings. All multiple member bodies of the City whether elected or appointed or otherwise constituted, shall meet regularly at such times and public places within the City as they may prescribe. Except in emergencies, special meetings of any multiple member body shall be held on the call of the respective chairperson or by one-third of the members thereof, by written notice delivered to the residence or place of business of each member at least 48 hours in advance of the time set. A copy of the said notice shall also be posted on the City bulletin board.

Special meetings of any multiple member body shall also be called within one week after the date of the filing with the City Clerk of a petition by at least 100 voters which states the purpose or purposes for which the meeting is to be called. Meetings of all multiple member bodies shall be open and public; however, a

multiple member body may meet in a non-public session as permitted by RSA 91-A."

(B) Agenda. Except in cases of emergency, at least 48 hours before any meeting of a multiple member body is to be held, an agenda shall be posted containing all items which are scheduled to come before the meeting. No action taken on a matter not included in the posted agenda shall be effective unless the body first adopts by special vote a resolution declaring that an emergency exists and that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the City.

(C) Rules and Minutes. Each multiple member body shall determine its own rules and order of business unless otherwise provided by this Charter or by State law. The City Clerk or designee shall take and keep the minutes of the respective proceedings. Such rules and minutes, except as provided for in RSA 91-A, shall be a public record kept available in a place convenient to the public at all times, and certified copies shall be kept available in the City Clerk's office.

(D) Voting. Except on procedural matters, all votes of all multiple member bodies shall be taken by a call of the roll and the ayes and nays shall be recorded in the minutes, provided,

however, that if the vote is unanimous, only that fact need be recorded.

(E) Quorum. A majority of the members of a multiple member body shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of the absent members in the manner and subject to the penalties prescribed by the rules of the body. No other action taken by a number of members smaller than the quorum shall be valid or binding.

SECTION 10.7 Duties of the Mayor of the City Council

(A) The Mayor of the City Council, in addition to other duties as provided for in this Charter, shall, after consulting with the Manager, prepare the agenda for presentation to the Council.

(B) The Mayor shall meet with the Manager as often as they both shall deem necessary in order to ensure that the Manager and the City Council are in agreement as to decisions made, or to be made, and to share information that may be of benefit to the Mayor and the City Council regarding public relations, economic development plans, or other public matters the Council may request the Manager to pursue.

(C) The Mayor shall advise the City Council on a monthly basis as to activities and progress on matters assigned to the Mayor.

October 16, 1995

(D) As a member of the City Council, the Mayor shall be fully subject to the non-interference requirement of Section 8.7 of this Charter.

(E) In order to carry out the Mayor's responsibilities, the Mayor shall be furnished a desk, office space, and secretarial services as needed. Upon leaving office the Mayor shall immediately turn over all papers, files, or other matters to the duly elected successor.

SECTION 10.8 Definitions

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in this Charter shall have the following meanings:

(A) Charter. The word "charter" shall mean this Charter and any amendments to it made through any of the methods provided under RSA 49-B.

(B) Days. The word "days" shall refer to calendar days.

(C) Emergency. The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.

(D) Initiative Measure. The words "initiative measure" shall mean a measure proposed by initiative procedures under this Charter, but excluding:

1. Matters relative to the organization or operation of the City Council;
2. An emergency measure passed in conformity with this Charter;
3. The City budget;
4. Tax anticipation notes;
5. An appropriation for the payment of the City debts or obligations;
6. Any appropriation of funds necessary to implement a duly adopted collective bargaining agreement;
7. Any proceeding, or part thereof, relating to the election, employment, appointment, suspension, transfer, demotion, removal or discharge of any City officer or employee;
8. Any proceeding repealing or rescinding a measure, or a part thereof, which is protested by referendum procedures:

(E) Majority Vote. Unless otherwise expressly provided, the words "majority vote" shall mean a majority of those present and voting with a quorum of the body present.

(F) Measure. The word "measure" refers to a specific act, or proposal. The specific act or proposal may be a resolution, an

ordinance, a referendum vote to be taken, or other proposed action, depending on the matter to be acted on.

(G) Multiple Member Body. The words "multiple member body" shall mean any body consisting of two or more persons, whether elected, appointed, or otherwise constituted.

(H) Number and Gender. The singular number may be extended and applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender; and words imparting the feminine gender shall include the masculine gender.

(I) Referendum Measure. The words "referendum measure" shall mean:

1. a measure protested by referendum procedures under this Charter, including a specific item in the City budget, but excluding items 1 through 7 listed in the definition (D) Initiative Measures, or;

2. any proceeding of the City Council providing for the submission or referral of a matter to the voters at an election.

(J) City. The word "City" shall mean the "City of Derry."

October 16, 1995

(K) Agency. The words "City Agency" shall mean any board, commission, committee, department, or office of the City government.

(L) Voters. The word "voters" shall mean registered voters of the City of Derry.

ARTICLE 11

TRANSITIONAL PROVISIONS

NOT VOTED

SECTION 11.1 Continuation of Government

All members of the City government, elected or appointed, except those abolished by this Charter, shall continue to perform their duties until the expiration of their current term, and until successors to their respective positions are duly appointed, elected and qualified, or their duties have been transferred.

The City Council shall take whatever measures are necessary to effectuate an orderly transition and shall take whatever actions are necessary to enable such transitions in office to comply with the provisions of this Charter.

October 16, 1995

SECTION 11.2 Continuation and Compensation of Personnel;

Abolition of Office of Mayor

(A) Until expressly changed after the effective date of this Charter, the compensation of all officers and employees of the City shall be the same as in effect June 30, 1993.

(B) Any person holding an office or position in the service of the City, or any person serving in the employment of the City, shall retain such office or position and shall continue to perform the duties thereof unless or until provisions shall have been made in accordance with this Charter for the performance of such duties by another person or agency. No person in the permanent full-time service of employment of the City shall forfeit pay grade or time in service by reason of such transfer. All such persons shall be retained in capacities as similar to their former capacities as is practical.

(C) The office of Mayor shall be abolished as of the effective date of this Charter. The present incumbent shall become a Councilor-at-large, and shall have all privileges, rights and access to information as any Councilor, and shall serve until the expiration of the elected term, March 9, 1995.

(D) The Manager, responsible to the Mayor for the administration of all City affairs placed in the Manager's charge under the

October 16, 1995

former Charter, shall, upon the effective date of this Charter, serve under the direction and supervision of the City Council. Any prior agreement for employment of the Manager, express or implied, shall terminate upon the effective date of this Charter. A new agreement for employment may be approved by the City Council under the provisions of this Charter.

SECTION 11.3 Council Salaries

The salary to be paid each City Councilor shall, as of July 1, 1993, not exceed \$2500.00 per annum. In addition to this sum, the Chairman of the City Council shall receive an additional sum of \$1500.00. Such salaries shall continue until changed by the City Council pursuant to Section 5.8 of this Charter.

SECTION 11.4 Transfer of Records and Property

As of the effective date of this Charter, all records, property and equipment of any City agency, the powers and duties of which are assigned in whole or part to another City agency, shall be transferred to the City agency to which such powers and duties are assigned.

SECTION 11.5 Effective Date

This Charter shall take effect July 1, 1993, except as otherwise provided. Prior to that date, the City Council shall prepare for transition to the form of government established by this Charter.

SECTION 11.6 Absorption of the East Derry Fire District

If at any time the voters of East Derry Fire District vote to dissolve the district, the functions, responsibilities and duties of the district shall become the responsibilities of the City. All permanent full-time employees of said district shall be transferred to the City fire service in capacities as similar to their former capacities as is practicable.

L. Brang

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DERRY CHARTER COMMISSION
MEETING

October 16, 1995 at TOWN HALL

Members Present:

Grant Benson
Jack Dowd
Roy Feinauer
Mike Gill

Paul Hopfgarten
Sandra Hopfgarten
James Lupien
William Zolla

Absent:

Fred Tompkins

William Zolla called the meeting to order at 6:30 p.m.

A motion to accept the minutes of October 9th meeting was made by Mike Gill and seconded by Sandra Hopfgarten. Vote was unanimous. Chairman made a correction on the updated charter page 23. It should read report from the Trust Funds not Fund.

Chairman's Report:

Chairman and a couple of the commission met with the School Board Tuesday, October 10th. Thursday night the Chairman met with the Friends of Education. Both meetings went well. Chairman and Mike Gill have been invited to appear on the show "Bottom Line" on October 26th. Chairman handed out copies of Mr. Gross's letter in reply to the Chairman's questions from the last meeting.

Recessed for 5 minutes to read Mr. Gross's letter.

Chairman read Mr. Gross's letter. Mike made a motion to add in Section 8.8 there shall be appointed by the administrator subject of confirmation by a majority voting of entire city council a city clerk who shall also perform the duties of a ward clerk established by State law. Roy seconded. Discussion. Vote 5-3 Paul, Sandra and Mike voted no. Motion passed.

Section 7.1 General Powers of the City Council-- Discussion on size of the School Board. Mike read Section 7.1 A, B, and C. Change in B to read -Without limiting the generality of the preceding subsection, the City Council shall also exercise the powers conferred by law on annual or special meetings of the Derry Cooperative School District to determine and appropriate the total amount of money to be spent by the School District, as well as authority conferred by law on legislative bodies of school districts to approve costs items associated with collective bargaining agreements. The power to elect members of the Derry Cooperative School District Board of Education and the power to determine the size of the School District Board in accordance with law shall be exercised by the qualified votes of Derry. Except as specifically provided herein, the administration of all fiscal and prudential affairs of the

School District, the direction of School District policy, the general management and control of District schools and properties, line item control over the School District budget and all other powers prescribed by law in relation to School District matters shall remain vested in the School District Board. The district meeting of the Derry Cooperative School District is hereby abolished. Mike made a motion to amend 7.1 to include A, B, and C as read. Jack seconded. Discussion. Vote 7-1 Paul voted no.. Amendment passed.

Jack made a motion that we amend all references to City Administrator to read City Manager. Mike seconded. Discussion. Vote 8.

Section 9.1 Fiscal Year read by Paul. Jim moved to approve as read. Mike seconded. Vote 8 yes. Motion passed.

Section 9.2 Preparation of Budget read by Paul. Roy moved to accept as read. Jim seconded. Discussion. Vote 8 yes. Motion passed.

Section 9.3 Submission of Budget: Budget Message A and B read by Paul. Mike moved to approve as read. Jack seconded. Discussion. Roy had a section to introduce to clarify how the school district budget to be presented to the board. Section 9.8 School District Budget (A) The Derry School Board shall present the budget of the Derry School District directly to the City Council without a time period that is mutually agreeable with both parties. The Council shall have time to study and recommend changes that they feel are necessary. Within a reasonable time, as agreed by both parties, or not later than the first Tuesday of March, the Council shall exercise its authority as allowed under Section 7.1B of this Charter and notify the School Board accordingly. (B) The School Board may apply for and accept unanticipated money from State, Federal or any other governmental units or private sources. This money to be deposited in a School District account and is not to be co-mingled with any city funds or accounts. No expenditures of money so received nor shall an appropriation for any purpose not included in the annual district budget be adopted unless approved by a 2/3rds majority of all the members of the City Council after a public hearing. Discussion on line item followed. Jim made an amendment to the motion to rename section 9.3 to 9.7 and corresponding sections renumbered. Paul seconded. Discussion to bring up Jim's handouts of last week Section 9.3 to 9.6 that were tabled last week. Motion was tabled.

Jim read his changes in Section 9.3 (A) Limitation of Budget Increases and (B) Growth Index and Section 9.4 Exception to Budget Limitation. Much discussion followed. Chairman of the School Board Joel Olbricht spoke. He wondered if there

was a cap flexibility based on indebtedness payments. Jim answered bond and principal payments. Joel asked if it excludes existing indebtedness when the charter changes. Reply -- it takes into existing principle of interest payments on bond issues. Joel has a problem with CPI and he sees that there is no flexibility. His concerns are that it is very inflexible and they don't have the power to make any big decisions. Jim made a motion to accept Section 9.3 A and B and Section 9.4 as read. Paul seconded. Discussion. Vote 5-3 Roy, Jack and Mike voted no. Motion passed.

Jim moved Section 9.5 Reserve Fund as submitted last week. Paul seconded. Discussion. Vote 7-1 Roy voted no. Motion passed.

Jim made a motion to adopt Section 9.6 Deficit Budget Control as read. Paul seconded. Discussion. Roy made an amendment to read as If it appears that the income is less than anticipated, the city council upon advice of the manager, may reduce the appropriations for any item or items except the amount for debt and interest charges, to such a degree as maybe necessary to keep city expenditures within the cash income. Manager may provide for monthly or quarterly allotments of appropriation to department funds or agencies under such rules as the manager may provide. No second. Amendment died. Vote 6-2 Jack and Roy voted no. Motion passed.

Section 9.7 which was formally 9.3 Jim made a motion to renumber 9.3 as 7 etc. Paul seconded. Vote 8 yes. Motion passed.

Section 9.7 Submission of Budget: Budget Message A and B read by Jim. Paul moved as read. Sandra seconded. Discussion. Mike made an amendment to add at the end of 9.7 (A) the following - The manager shall include in the proposed budget, without change, the school budget proposed by the Derry Cooperative School District. Jack seconded. Discussion. Vote 8 yes. Motion Passed.

Paul made a motion to add 8.6 (I) to read as follows: The manager shall have no authority with respect to the affairs of the Derry Cooperative School District, other than to direct that at the time specified in accordance with Section 9.2, the detail of expenditures proposed by the School District shall be presented to the Manager for inclusion in the proposed budget to be submitted to the City Council. Jim seconded. Discussion. Vote 8 yes. Motion passed.

Section 9.8 Action on the Budget (A) Public Hearing and (B) Adoption read by Paul. Paul moved to accept as written. Seconded by Jim. Jim made an amendment to (B) Adoption to read after service provided it shall be in accordance with Section 9.3 A and B. Also after the word specified add

provided it is in accordance with Section 9.3 A and B. Paul seconded. Discussion. Vote 6-2 Jack and Roy voted no. Amendment passed. Mike moved to accept Section 9.8 as amended. Vote 6-2 Jack and Roy voted no. Motion passed.

Section 9.9 Quarterly Budget Reports read by Jack. Paul moved as read. Mike seconded. Roy made an amendment that it would be the second regular meeting of each quarter. and remove, or designee, and then in the next sentence change first to second regular meeting etc. Paul seconded. Discussion.

Five minute break.

Chairman read a letter from the Friends of Education. Commission will take the letter under advisement.

Section 9.9 Quarterly Budget Reports - Amendment was made and seconded. Vote 3-5. Grant, Mike, Jim, Jack and Bill voted no. Amendment failed. Jack made an amendment to second regular meeting. Grant seconded. Vote 8 yes. Amendment passed. Vote on Section 9.9 as amended. Vote 8 yes.

Section 9.10 Appropriations After Adoption of Budget read by Paul. Paul moved as read. Jack seconded. Vote 8 yes. Motion passed.

Section 9.11 Transfer of Appropriations read by Paul. Roy moved to accept as read. Paul seconded. Discussion on what constitutes a department. Chairman asked Roy to define departments by function codes for the next meeting and they will be put into the definitions. Roy made an amendment to add (C) The manager shall furnish the council a quarterly report listing all transfer made during the quarter with copies available for public review. Jim seconded. Discussion. Vote 5-3 Paul, Jack and Mike no. Amendment passed. Vote on 9.11 as amended. Vote 6-2 Jack and Mike no. Passed.

Chairman read Mr. Gross's latest invoice in the amount of \$4428.90. We owe him \$10,846. Jim made a motion to accept. Vote 8 yes.

Motion to adjourn. All in favor.

Meeting adjourned at 10:00 p.m.

R.F./C.G.

cc min #16

Derry
Cooperative
School
District #1

N.H. Administrative Unit #10
DAVID M. BROWN
Superintendent of Schools
G. DAVID JACK
Assistant Superintendent

October 23, 1995

William Zolla, Chairman
1995 Derry Charter Commission
Derry, New Hampshire

Dear Bill:

We, the Derry School Board, are writing this letter to all the Commissioners. We wish to have this document not only read at your meeting, but also a part of your committee's permanent record.

We are concerned about the Charter's proposed *Section 9* relative to limitations on budget increases (a.k.a. spending caps). We are unanimously **against** such spending caps as part of the new city charter. In fact, we will find it difficult to support the charter with such section. ✓

During your meeting on Monday, October 16, 1995, We believe the commissioners were not fully informed of the facts regarding when the Town and School budgets can be increased over the spending caps. Mr. Lupien stated that currently, the Town and Schools have good workable budgets; the Town is maintaining roads and the schools are meeting more NH minimum standards than last year (except for classrooms). While that is true, we are deeply concerned if the Town and school budget are drastically cut in March, 1996, we will be unable to catch up again. This will affect our ability to meet minimum standards and other programs that are important to delivering education. If we are cut by \$3 million and then can only increase our budget by 4.43 % (as shown in the example), Derry will never again be proud of our school ✓ district. Even if the intention of Mr. Lupien is to start caps based on our current budget, that may not be close to real school spending needs. ✓

Many commissioners may have believed that the caps could be overrode by a two-thirds vote. They may not have understood that this only applies to principal and interest payments on existing bonds. Thus, in the example that I presented on October 16th, the spending cap could not be overrode to deal with the increased budget for new staff in order to open any new required elementary school building and/or reopen Floyd. We do believe that in some years it may be possible to operate under any budget caps, as it is possible to add a certain amount of new students with out increasing budgets. However, our review of our revised Scot Gerrish growth projections, suggest that Derry may need a new school building. We understand that the bond

Barry
Cooperative
School
District #1

October 25, 1992

William Zolla, Chairman
1992 Barry Charter Commission
Barry, New Hampshire

Dear Bill:

We thank you for your letter of October 14, 1992. We wish to have the Barry School Board reviewing the letter from the Commission. We wish to have the Commission not only review the letter, but also a part of the Commission's permanent record.

We are concerned about the Commission's recommendation on budget increases for the spending cap. We are unanimously against such spending cap of the new city charter. In fact, we are not even sure if it is possible to expand the charter with such a cap.

During our meeting on Monday, October 19, 1992, we believe the Commission was not fully informed of the facts regarding when the Town and School budgets are presented over the spending cap. Bill Zolla stated that currently the Town and School have good workable budgets. The Town is maintaining roads and the school is meeting more than 90% minimum standards than last year (except for classroom). While that is true, we are deeply concerned if the Town and school budget are drastically cut in March, 1993, we will be unable to catch up again. This will affect our ability to meet certain standards and other programs that are important to delivering education. If we are cut by \$2 million and then can only increase our budget by \$450,000 (as shown in the example), Barry will never again be proud of our school.

It is the opinion of Mr. Zolla that it is not possible to start with an existing budget that may not be close to real school spending needs. It is our opinion that the cap could be overridden by a two-thirds vote. They may not have understood that this only applies to principal and teacher salaries on existing boards. Thus, in the example that I presented on October 14th, the spending cap could not be overridden to deal with the increased budget for new staff in order to open any new required elementary school building and/or reopen Frye. We do believe that in some years it may be possible to operate under any budget cap, as it is possible to add a certain amount of new students with out increasing budgets. However, the review of our revised 8000 Gortish growth projections suggest that Barry may need a new school building. We understand that the bond

Mr. William Zolla
Page Two
October 23, 1995

payments could be exempt from the caps, however, this is a small annual increase. **The majority of the increase needed is the amount to staff and maintain a new building.** The current budget was increased 4.41% just to staff and maintain West Running Brook Middle School. These are new costs that will need to be in all future budgets. The caps do not provide for this increase. ✓

The other reasons we can not accept a charter with spending caps are:

1. A review of all the factors used in the caps would report the following:

Consumer Price Index (three year average)	2.9%
Increase in average school attendance	3.8%
Increase in net assessed construction	1.0%
Decrease in City's average annual wages	-.3%

First, the highest growth is and will probably always be student increases. The average of the last three will always produce a low result. In the example, even though student population increases by 3.8%, the growth index would only allow budget increase of 1.53%. Also, if attendance growth accounts for the majority of the growth index, the schools are not guaranteed that we will receive or even share in any City budget increase. ✓

Second, using an average of the last three years CPI will produce low results, since CPI really has no where to go but up. An averaging technique will minimize needed increases. As CPI increases the averaging waters down the cap and won't even provide for a higher current CPI. Third, in used the indexes presented, they will not be the most current.

2. Spending caps don't allow for any flexibility and needs. Councilors are tied to spending cap increases and they can't and won't be able to make difficult decisions. In fact, a machine would be able to set the annual budget.
3. As our student population ratio increases to Pinkerton Academy, our budget increases won't necessarily come from student attendance growth. Our budget will need to increase since a student a Pinkerton is more expensive than an elementary student.
4. Governments around us are trying to deal with their spending caps. Nashua will have a vote to eliminate their spending caps next year. They have seen problems with their bond rating, because bond payments may not be adequately funded. In Massachusetts, the state is contributing more each year to localities to supplement budgets where proposition 2 1/2 has devastated public education. This year the state is providing \$220 million. As we all know, New Hampshire provides no meaningful funding.

payments could be exempt from the cap. However, this is a small annual increase. The majority of the increase needed is the amount to start and maintain a new building. The current budget was increased 4.41% just to start and maintain West Running Brook Middle School. These are raw costs that will need to be in all future budgets. The caps do not provide for this increase.

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Increase in net assessed valuation	1.0%
Increase in City's average annual wages	-3%

First, the highest growth is and will probably always be student increase. The average of the last three will always produce a low result. In the example, even though student population increased by 3.8%, the growth index would only show budget increase of 1.23%. Also, if attendance growth accounts for the majority of the growth index, the schools are not guaranteed that we will receive or even share in any City budget increase. Second, using an average of the last three years CPI will produce low results, since CPI really has no where to go but up. An averaging technique will minimize needed increases. As CPI increases the averaging works down the cap and won't even provide for a higher current CPI. Third, in using the indexes presented, they will not be the most current.

2. Spending caps don't allow for any flexibility and needs. Councilors are tied to spending cap increases and they can't and won't be able to make difficult decisions. In fact, a machine would be able to set the annual budget.

3. As our student population rate increases to Pickston Academy, our budget increases won't necessarily come from student attendance growth. Our budget will need to increase since a student a Pickston is more expensive than an elementary student.

4. Government's should be trying to deal with their spending caps. Most of them will have a vote to eliminate their spending caps next year. They have seen problems with their bond rating, because bond payments may not be adequately funded. In Massachusetts, the state is contributing more each year to localities to supplement budgets where proposition 2 1/2 has devastated public education. This year the state is providing \$230 million. As we all know, New Hampshire provides no meaningful funding.

Mr. William Zolla

Page Three

October 23, 1995

5. Councilors should be accountable to their electorate. If taxes increase too much, the voters don't have to vote them back.

It is not the intention of the School Board to be opposed because we can't control spending. The reality is that we can't control the student population growth. Our budget is driven primarily by student population. Even the research done by Commissioner Gill reports that Derry school spending is not unreasonable.

We request that you reconsider your vote to include spending caps and remove them from the proposed City Charter. We would wish to continue to support this City Charter, instead of possibly removing our support.

Sincerely,

Ernest P. Barka
Michael Buckley
Richard M. Metts
Joel C. Olbricht
Grace Reisdorf
Rick Willets
Barbara Yelland
Derry School Board

cf: Superintendent David Brown
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Mr. William Zolla
Page Three
October 23, 1995

2. Candidates should be accountable to their constituents. If taxes increase too much, the voters don't have to vote them back.

It is not the intention of the School Board to be opposed because we can't control spending. The reality is that we can't control the student population growth. Our budget is driven primarily by student population. Even the research done by Commissioner Gill reports that Derry school spending is not unreasonable.

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Sincerely,

Edward E. Gandy
Michael Buckley
Richard M. Slater
Joel C. Olinick
Garry Rishoff
R. F. Willard
Gordon Yelland
Derry School Board

cc: Superintendent David Brown
Mr. Joseph/William Zolla

A Crowded Field

Nashua mayoral race promises a lively debate among prominent hopefuls

Nashua is about to choose someone to lead the city while taking on highly controversial issues like the spending cap and improved economic development. In fact, voters will have a chance to elect a new guard throughout the city as 12 seats on the Board of Aldermen and five others on the eight-member school board are up for grabs in the Nov. 7 election.

With Mayor Robert Wagner stepping down after one four-year term, seven candidates have set their sights on the city's highest office. And why not? The office offers a salary of \$64,513 per year—the state's highest-paying mayoral seat.

Of the seven candidates in the race, four are current members of the Board of Aldermen, two are former aldermen, and one is on the Board of Education.

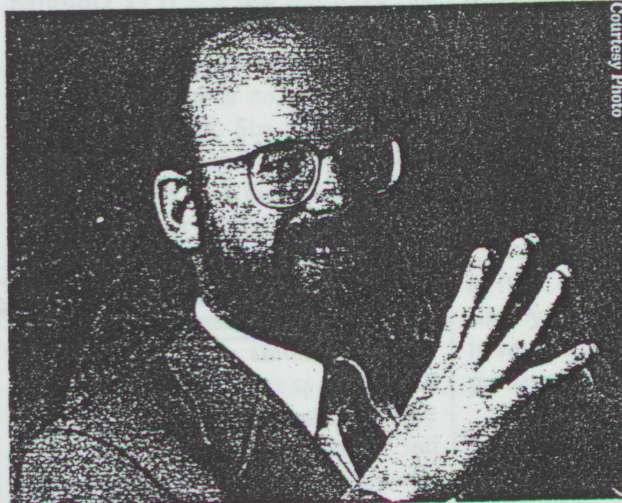
The candidates: Joyce Arel, 57, the president of the Board of Aldermen; Steve Bolton, 41, who served as city attorney and is now a member of the Board of Education; Tracy Hatch, 34, alderman; Fred Teeboom, 56, alderman; Tom Kelley, 52, alderman; Don Davidson, 56, former alderman; Carl Andrade, 48, former alderman.

Former Mayor James Donchess declares the race wide open. "Anybody in the race could win," he states, adding that no one predicted Wagner would win when he ran in 1991. "Some are more likely to win than others, but the outcome is unpredictable."

Wagner, who was elected in 1991 after serving less than two years as an alderman, reportedly spent less money on his mayoral election campaign than

his opponent, Don Davidson. That race demonstrated, observers note, that even campaign spending can't be used as a barometer for the potential victor.

The high salary isn't all that makes Nashua's mayoral election distinct from other cities in the Granite State: To win this non-partisan election, a candidate must secure at least 50% of the vote. As a result of these rules, the city has held a



Mayor Robert Wagner is stepping down after one four-year term

run-off in December in almost every race. And, somehow, every winner in the modern era has been affiliated with the Democratic Party.

While the mayoral office here may appear to be a stepping stone to, say, the governor's office or the U.S. Congress, few mayors have successfully left Nashua for higher office.

Nevertheless, the city has enjoyed the national spotlight in recent years. *Money Magazine* named it among the top cities in America in which to live. The low crime rate and attractive housing prices consistently earn the city high honors when ratings guides compile lists.

High ratings, however, fail to mask serious conflicts and shortcomings in city government—at least according to the candidates who have offered themselves as the leaders capable of finding answers. This year's election features a referendum asking voters to repeal the spending cap imposed three years ago. Based on the national consumer price index, the cap allows an increase in

spending only as inflation increases. The effect of the spending cap referendum on the mayoral race is the biggest unknown facing candidates and prognosticators.

The citizen's group known as Save Our City Coalition collected more than 3,600 signatures to place the referendum on the ballot. Charles Reynolds, a spokesman for the organization, argues the cap is not helping the city.

"It doesn't allow for any flexibility at all, and it's just not working," he charges. "If we wanted to go out and spend some money to recruit, say, new

business—we couldn't do it. I think that is more important than the spending cap.

"The only way we raise revenues is with property taxes," observes Reynolds. "That's what's unique about this state. Recruiting business is good for the Realtors, the building industry and the taxpayer."

Reynolds cannot understand, for example, why the city reduced the budget for the Office of Economic Development.

Only two candidates for mayor, Teeboom and Hatch, support the cap. Teeboom is one of its original proponents and believes it is important to limit spending in City Hall. He contends the

Courtesy Photo

A Crowded Field

Nashua mayoral race promises a lively debate among prominent hopefuls

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"It doesn't allow for any flexibility at all, and it's just not working," he charges. "If we wanted to go out and spend some money to rebuild, say, new business—we couldn't do it. I think that is more important than the spending cap."

"The only way we raise revenues is with property taxes," observes Reynolds. "That's what's unique about this state. Raising business is good for the location, the building industry and the taxpayer."

Reynolds cannot understand, for example, why the city reduced the budget for the Office of Economic Development. Only two candidates for mayor, Tesboom and Hawk, support the cap. Tesboom is one of its original proponents and believes it is important to limit spending in City Hall. He concedes the

his opponent, Don Davidson. That case demonstrated, observers note, that even campaign spending can't be used as a guarantee for the potential victor.

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run-off in December in almost every race. And, somewhat every winner in the runoff has been affiliated with the Democratic Party.

While the mayoral office here may appear to be a stepping stone to the U.S. Congress, few mayors have successfully left Nashua for higher office.

Nevertheless, the city has enjoyed the highest spending in recent years. Although it ranked 11th among the top cities in America in which to live. The low crime rate and attractive housing prices consistently rank the city high honors in most things guides compile lists.

Nashua is about to choose someone to lead the city while taking on highly controversial issues like the spending cap and improved economic development. In fact, voters will have a chance to elect a new grand throughout the city as 12 seats on the Board of Aldermen and five seats on the eight-member school board are up for grabs in the Nov. 7 election.

With Mayor Robert Wagner stepping down after one four-year term, seven candidates have set their sights on the city's highest office. And why not? The office offers a salary of \$62,513 per year—the state's highest-paying municipal post.

Of the seven candidates in the race, four are current members of the Board of Aldermen, two are former aldermen, and one is on the Board of Education.

The candidates: Joyce Aul, 57, the president of the Board of Aldermen, 2nd District, 41, who served as city secretary and is now a member of the Board of Education. Tracy Hatch, 34, alderman, 1st District, 30, alderman, 1st District, 22, alderman, Don Davidson, 36, former alderman, Carl Anderson, 48, former alderman.

Former Mayor James Dochowsky declares the race wide open. "Anybody in the race could win," he states, adding that no one predicted Wagner would win when he ran in 1987. "Some are more likely to win than others, but the outcome is unpredictable."

Wagner, who was elected in 1991 after serving just two years as an alderman, reportedly spent less money on his mayoral election campaign than



Courtesy Photo

Joyce Arel, president of the Board of Aldermen

cap is "absolutely essential" to keeping the budget and the tax rate under control.

"It's the most influential piece of legislation passed in the city in many, many years," he observes.

Teeboom promises that if elected, he will reduce the tax rate by cutting the budget and privatizing services. He also supports charter schools, because he thinks the public schools in Nashua are a disgrace. To help promote charter schools, he would set up an educational information center so residents could find out more about the benefits they offer.

Alderman Hatch, the youngest candidate in the race, brings experience in Washington to the battle, having worked for the House Committee on Education and Labor, as well as for governors Judd Gregg and John Sununu.

"Taxes and spending obviously are the top priorities," Hatch states. "The spending cap is a very good tool, but it's not a way to end all of our spending problems. It's not just how much you spend, it's how we get the money we have."

Hatch cites leadership as another key factor in the race. "In this administration, we have seen a real lack of leadership and lack of vision for the city. It's not so important to be number one in the eyes of *Money Magazine*, but to be number one for the residents of a city that is looking forward to the 20th century."

On the other hand, Bolton, a member

of the school board, will vote to repeal the spending cap, calling it "artificial and unnecessary. The spending cap bears no relationship to the needs of the city in any given year. It doesn't relate to the property tax rate or the cost of the city services." He adds that even Teeboom has tried to make changes to it.

Bolton is also stressing his leadership abilities, calling this trait "the single most important function for the next mayor. We need someone who knows how municipal government is supposed to work."

His other priorities include maintaining a good school system which has an impact on property values, and developing a campaign to market the city to outside companies.

Alderman Arel, whose husband served as mayor for two terms, is campaigning as if she did not have the advantage of name recognition. She, too, will vote to repeal the spending cap, noting there is no provision for population growth. She also contends that part of it is illegal because it is taking money out of a reserve fund that was designed for other uses. In addition, she stresses the city's bond counsel advised officials the cap will adversely affect Nashua's bond rating.

Arel ticks off an ambitious list of items she plans to address as mayor. "All of the issues are interconnected. The major issue is economic viability, and that includes two things: getting a dollar's worth from your tax dollar, and encouraging present business and industry and attracting new business."

Former Alderman Andrade, who is now publisher of *Video Shorts Magazine*, quips the spending cap should be rejected in place of a thinking cap. "It's counterproductive and diverting attention from the real issues. We should cut a program that's not cost effective, not based on how it affects a three-year-old spending index."

Andrade notes that in 1993, the city's bond rating declined from AA to A1. (A city's highest possible rating is AAA). As a result, keeping the spending cap will only raise the cost of city borrowing.

"The most important thing a city can do is ensure the quality of life within a city, and taxes are an important part of

ensuring that," he continues.

Alderman Kelley also opposes the cap, contending that even supporters acknowledge it must be modified. Campaigning for mayor for the second time in his 22 years as an alderman, Kelley is banking on his long record as a leader to attract votes.

He has already served two terms as president of the Board of Aldermen (1982-85 and 1988-91) and is now chairman of the Joint Special School Building Committee, so his leadership ability should be well known to voters. In addition, Kelley is proud to bring his experience on the boards of local charities to the office.

As for specific issues, he states, "My primary goal, obviously, is to keep any increases in the tax rate to the absolute minimum."

Former Alderman Davidson runs his own consulting firm and is a veteran commercial airline pilot. To most voters, though, he is best known as the "almost but not quite" candidate in the 1991 election in which he lost by fewer than 300 votes to Wagner.

Davidson, who last held elected office in 1983, will vote to repeal the cap. "I am fiscally conservative, but I am also socially responsible. You have to look at the problems of all of the people."

He criticizes the current administration for adding 51 employees to the city payroll and charges that politicians do not know how to balance budgets like a



Courtesy Photo

Steve Bolton, a member of the Board of Education

On the other hand, Bolton, a member looking forward to the 20th century.

one for the residents of a city that is of money matters, but to be honest important to be number one in the eyes and lack of vision for the city. It's not so we have seen a real lack of leadership factor in the race. In the administration, Hatch came leadership as another key we get the money we have."

It's not just how much you spend, it's how way to end all of our spending problems. ing city is a very good tool, but it's not a "top priority," Hatch says. "The spend- taxes and spending obviously are the Gregg and John Sumner.

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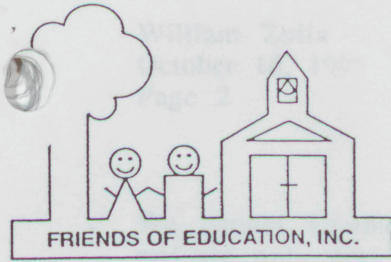
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Box 263
55 Crystal Ave.
Derry, NH 03038

October 16, 1995

Mr. William Zolla
Pond Road
Derry, NH 03038

RE: Charter Commission

Dear Bill:

The Friends of Education would like to thank you and the other members of the Commission who attended our October meeting to provide us with an update on the Commission's progress and to hear our questions and comments.

We appreciate the work you have done so far in drafting the proposed Charter and welcome the opportunity to provide you with our comments and suggestions.

Article 5. The Governing and Legislative Body

Our concern is to have a Council structure that will foster stability. The current proposal of two year terms with four or five of the nine councilors elected each year has the potential for a turnover of approximately half of the councilors each year. In addition, half of the councilors would have to concentrate on reelection bids each year rather than concentrating on the business of the Council. We think a better structure would be three year terms with one-third of the nine councilors elected every year. This would provide for continuity with two-thirds of the council remaining in tact each year while providing voters with the opportunity to change one-third of the council every year if they so desire.

Also, the present structure of one At-Large Councilor elected at large, four District Councilors elected by his or her district, and four District Councilors elected at large is contrary to the "keep it simple" philosophy espoused by Chairperson Zolla at our meeting. We see no purpose for having District Councilors elected at large. By definition, a District Councilor should represent the constituents in his or her district and therefore should not be elected by persons outside his or her district. In the present structure, a District-At-Large Councilor could receive less than a majority of the votes in his or her district but still be elected.

Article 7. General Powers

We are encouraged by the effort of the Commission in attempting to tackle the difficult problem of balancing School District appropriations and Town appropriations by bringing the "bottom line budget authority" of the School District Meeting under the Council.



Box 257
25 Crystal Ave.
Derry, NH 03033

October 16, 1992

Mr. William Zolts
257
Derry, NH 03033

RE: Charter Commission

Dear Bill:

The Friends of Education would like to thank you and the other members of the Commission who attended our October meeting to provide us with an update on the Commission's progress and to hear our questions and comments.

We appreciate the work you have done so far in drafting the proposed Charter and welcome the opportunity to provide you with our comments and suggestions.

Article 2: The Governor and Legislative Body

Our concern is to have a Council structure that will foster stability. The current proposal of two year terms with four or five of the nine councilors elected each year has the potential for a turnover of approximately half of the councilors each year. In addition, half of the councilors would have to concentrate on reelection bids each year rather than concentrating on the business of the Council. We think a better structure would be three year terms with one-third of the nine councilors elected every year. This would provide for continuity with two-thirds of the council remaining in fact each year while providing voters with the opportunity to change one-third of the council every year if they so desire.

Also, the present structure of one At-Large Councilor elected at large, four District Councilors elected by his or her district, and four District Councilors elected at large is contrary to the "keep it simple" philosophy espoused by Governor Zolts at our meeting. We see no purpose for having District Councilors elected at large. By definition, a District Councilor should represent the constituents in his or her district, and therefore should not be elected by persons outside his or her district. In the present structure, a District-At-Large Councilor could receive less than a majority of the votes in his or her district but still be elected.

Article 3: General Powers

We are encouraged by the effort of the Commission in attempting to tackle the difficult problem of balancing School District expenditures and Town appropriations by bringing the "bottom line budget authority" of the School District Meeting under the Council.

We cannot comment specifically on the procedure necessary to accomplish that goal; and we only urge you to do your utmost to insure the procedure is legally correct so that there are not problems in the future.

We can, however, comment on how the division of authority between the School District and the City Council should be made. It is our desire that the City Council have authority over the "bottom line budget" which is now voted on at the School District Meeting. The remaining legislative authority of the School District should remain with the School District and not be transferred to the City Council.

Such issues as how the School District appropriations should be disbursed, whether or not additional outside revenues to the District can be accepted, whether grants can be accepted, the structure of the School Board, contract negotiations, etc., should remain within the authority of the School District.

There appears to be some disagreement between the Charter Commission and the School Board and their respective attorneys regarding the language necessary to accomplish this intent. We would urge the Charter Commission and the School Board to attempt to come up with acceptable language for the Charter. If the intent of the Charter Commission is otherwise than our understanding, the intent should be made clear so that we have a full understanding of the impact of the Charter.

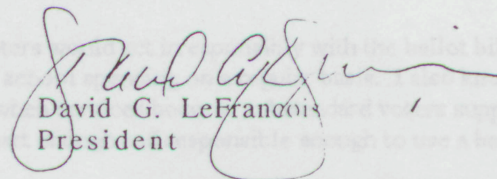
Proposed Budget Caps

It is our understanding that there is a proposal before the Charter Commission to institute a budget cap formula into the Charter. We oppose the concept of a budget cap as being an artificial restriction or limitation placed upon the Councilors whose duty it is each year to determine a budget that adequately meets the needs of the community while weighing the costs on the taxpayer. The balancing act the Councilors must do to come up with a budget is difficult enough without superimposing caps that may or may not fit the circumstances of a particular year.

We look forward to following the process of the Commission in ironing out the various issues of the Charter and we will no doubt provide additional comments to you when you schedule your next public hearing.

Thank you for your time and consideration in this matter.

Very Truly Yours,


David G. LeFrancois
President

DGL/gsj

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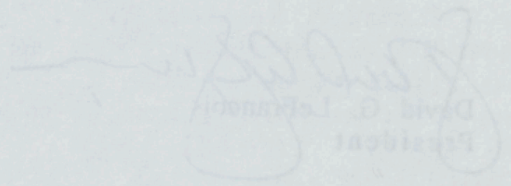
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We look forward to following the process of the Commission in moving out the various issues of the Charter and we will no doubt provide additional comments to you when you hold your next public hearing.

Thank you for your time and consideration in this matter.

Very Truly Yours,


David G. LeFevre
President

DGL/vsl

9/9/95

To: Chairman of the Derry Charter Commission

From: Mark Donovan (63 Frost Road)

Re: Recommendations to the Charter Commission

After watching and listening to the Charter Committee deliberate, for many weeks, on whether Derry should be a town or a city I have grown concerned that the committee members have lost sight of why residents voted in favor of establishing the charter commission in the first place.

It is my opinion, and those of most other people I have spoken with, that the Charter Commission was voted in because 1) residents can not continue to afford skyrocketing tax bills, 2) they don't trust the local politicians, and 3) voters want to have the final say on town budgets, like they do with the school budget.

So far, what I see developing out of this charter commission meets none of the objectives the voters hoped for when they voted for a charter commission. In my opinion, it looks like the pot of alphabet soup is being stirred up so that the words spell City Councilors instead of Town Councilors. And that looks like about it. The way Derry history goes even the names of the Councilors probably won't change. And when voters understand this, the probability of Derry residents supporting your efforts and proposed charter will be about nil.

~~_____~~

I understand that one of the Charter committee's objective is to bring the school district under the budgetary control of the City or Town Council, and that because of the Laconia case, the committee feels going to a city may be the best approach in avoiding a successful court challenge. Make no mistake, however, if the Charter Committee develops a charter that attempts to usurp the authority and livelihoods of the school district it will be challenged.

I also understand that Charter Committee is not in favor of utilizing House Ballot bill 141, which is only available to towns. This is one reason why I'd like to see Derry stay a town. You believe it is poorly written, not been tested, and will be challenged. I agree it is poorly written, and yes it probably will be challenged, however, I think the Commission should implement it. It supports one of the objectives voters had in mind when they established the charter commission.

I also understand that if Derry was to remain a town and implement House Bill 141 the school district would have to dissolve itself prior to having budgetary control fall under the Town Councilors and citizens. Yes, the self dissolution of the school district may not happen, but at least the voters would have the ability to vote on the town budget, whether it be by ballot or at a town meeting. Like most, I would much prefer the ballot, verses the midnight moves of reconsiderations. Again, this approach meets the objectives of the voters who supported the establishment of the charter commission.

I know some of the members are concerned that the voters would act irresponsibly with the ballot bill, and yes may not support 25% annual increases in town and school spending on a regular basis. I also know, from what we saw this past year with the schools, that when services become substandard voters supported spending increases. So yes, I believe the voters are smart enough and responsible enough to use a ballot to make their decision.

To summarize, I strongly urge the Charter Committee to re-think it's course. I believe a town provides the most options to the citizens of Derry for meeting the voters objectives I mentioned earlier. Besides House Bill 141, Budget committees can also be instituted in a town form of government. I think House Bill 141 should be included in the charter, and that the School district budget should fall under the

approval of the Town Council. Finally, Voters should be given the right to make the final approval on town and school bottom line budgets.

If the committee feels to remain on the course of going the way of a city, then I urge you to at least institute an annual spending cap increase, like the city of Nashua. You may consider relating the spending cap increase on a per capita basis to take into considerations for large influxes in the population.

Also, as Vice Chairman of the DTA, I would like to support the Charter commission's efforts and to recommend your charter to the general DTA membership. Unfortunately, I believe your current course does not address any of the voters goals and the members of the DTA. As a result, I find myself unable to support your efforts. ~~and the committee has decided to accept the charter~~. Again, I urge all of the Charter Commission members, to rethink the committee's course, so that I can explain to the DTA members in March that the proposed charter is a good step in attempting to solve some of the problems in Derry and to recommend a YES vote.

Sincerely,

Mark J. Donovan

approval of the Town Council. Finally, I would like to give the right to make the final approval on town and school bottom line budget.

If the committee feels to remain on the course of going the way of a city, then I urge you to at least institute a annual spending cap increase, like the city of Madison. You may consider relaxing the spending cap increase on a per capita basis to take into consideration for large increases in the population.

Also, as Vice Chairman of the DTA, I would like to support the Charter Commission's efforts and to recommend your efforts to the general DTA membership. Unfortunately, I believe your current course does not address any of the town's goals and the members of the DTA. As a result, I find myself unable to support your efforts. I believe that the Charter Commission's efforts are a good step in attempting to solve some of the problems in Madison in that the proposed charter is a good step in attempting to solve some of the problems in Madison and to recommend a YES vote.

Sincerely,

Mark J. Donovan

L. Gray

DERRY CHARTER COMMISSION
MEETING

October 9, 1995 at TOWN HALL

Members Present:

Grant Benson
Jack Dowd
Roy Feinauer
Mike Gill

Paul Hopfgarten
Sandra Hopfgarten
James Lupien
William Zolla

Absent:

Fred Tompkins

William Zolla called the meeting to order at 6:30 p.m.

A motion was made by Paul Hopfgarten to accept Section 8.2, as read, for a clarification of the vote in the minutes of October 2, 1995. Seconded by Grant Benson. Vote 7-0.

A motion was made to accept the minutes of October 2, 1995 as corrected. All in favor.

Chairman's Report:

Chairman reminded the commission about the meeting with the Friends of Education to be held on October 12th at 7:30 p.m. at Grinnell School. 7 members will be attending this meeting. He also received an invitation to discuss the Charter proposal with the School Board on October 10th at 7:30 p.m. at Hood School.

Chairman read a letter from the School Districts attorney, Barbara Loughman, in regards to Transfer of Legislative Authority of School District Meeting and Size of City Council. He has forwarded a copy of this letter to Mr. Gross for his opinion. Discussion followed. Paul made a motion to take Attorney Loughman's letter under consideration. Seconded by Jim. Jim withdrew his second and Paul withdrew his motion.

Roy made a motion to change the heading on Elected Trustees to Boards of Trustees and on 4.1 (C) to add after final report of the Trust funds shall be submitted to the City Council. Seconded by Jim. Discussion followed. Vote 7-1 Paul voted no.

Roy had a question on 8.4 Removal of Administrator. Discussion followed. *NO ACTION TAKEN.*

Section 8.6 Powers and Duties of Administrator read by Bill. Paul made an amendment on 8.6 (B) to read majority vote of the City Council. Mike seconded. 8 yes.

Mike had a question on 8.6 (A) last sentence. Does this include the School District? Discussion followed. Chair will ask Mr. Gross to clarify our intent to exclude the

power of the administrator from overseeing the school district. Jack made a motion to accept Section 8.6 as amended with the language of the council to be included later. Jim seconded. Vote 8 yes. Motion passed.

Section 8.7 Non-interference of Individual Members of the City Council read by Bill. Mike moved to accept 8.7 as written. Jim seconded. Discussion. Vote 8 yes. Motion passed.

Mike read RSA 49C:20.

Section 8.8 Appointive Officers read by Mike. Roy made a motion to accept as printed. Jack seconded. Discussion. Sandra made an amendment to read subject to confirmation by majority vote of the entire City Council. Seconded by Paul. Discussion. Vote 8 yes. Vote on 8.8 A and B as amended. Discussion. Vote 8 yes.

Section 8.9 Department Administrative Code read by Bill. Roy made a motion that the words in the fourth sentence from the bottom "and only" be eliminated. No second. Discussion.

Bill made a motion to add 6.2E The City Council shall have in place an administrative code or ordinance within twelve months of the passage of this charter. Jack seconded. Discussion. Vote 8 yes. Motion passed.

Paul moved to approve 8.9 as read. Jim seconded. Discussion. Vote 8 yes. Motion passed.

Section 8.10 City Clerk read by Bill. Mike moved to delete 8.10 in its entirety and insert the words City Clerk under section 8.8 (A) after City Council. Jim seconded. Discussion. Vote 7-1, no Roy. Motion passed.

Paul stated there is no section for Ward Clerk defining duties, should there be? Discussion followed. Bill will ask Mr. Gross this question.

10 minute break.

Article 9 Finance Jim had many suggestions on Article 9 and gave a copy to each of the commissioners. Jack moved to table Article 9. Jim seconded. Vote 8 yes.

Article 10 General Provisions Section 10.1 Availability of City Records read by Bill. Paul moved as read with one change of town to city agency. Jim seconded. Discussion. Vote 8 yes. Motion passed.

Section 10.2 Liability of City Officers and Agencies read by Bill. Paul moved as read. Seconded by Jack. Discussion. Vote 8 yes. Motion passed.

Section 10.3 Prohibition read by Bill. Roy moved to accept as read. Jim seconded. Discussion. Vote 8 yes. Motion passed.

Section 10.4 Severability read by Jack. Roy moved as read. Seconded by Paul. Discussion. Vote 8 yes. Motion passed

Section 10.5 Specific Provisions Shall Prevail read by Jack. Paul moved as read. Mike seconded. Discussion. Vote 8 yes. Motion passed.

Section 10.6 Procedures read by Jack. Jim moved as read. Mike seconded. Discussion. Paul made an amendment to Section (E) Quorum to change majority to 2/3rds of the members of the City Council and the majority of any other multiple member body... Paul withdrew his amendment. -Vote 8 yes. Motion passed.

Section 10.7 Duties of the Chairman of the City Council read by Mike. Roy made an amendment to change the word Chairman to Mayor in all places. Mike Seconded. Vote 8 yes. Amendment passed. Vote on Section 10.7 as amended. Vote 8 yes. Motion passed.

Section 10.8 Definitions read by Paul. Jim moved to approve as read. Seconded by Mike. Discussion. Mike made an amendment on (I) Referendum Measure 1 to read definition (D) instead of (E) Initiative Measures, or;. Seconded by Vote 8 yes. Motion passed.

Article 9 and 11 to be worked on at the next meeting.

Public meeting in December. November 19th Preliminary Report due.

Motion to adjourn. All in favor.

Meeting adjourned at 9:40 p.m.

R.F./C.G.

cc min 15

DERRY CHARTER COMMISSION
MEETING

October 2, 1995 at TOWN HALL

Members Present:

Grant Benson
Jack Dowd
Roy Feinauer
Mike Gill

Paul Hopfgarten
Sandra Hopfgarten
James Lupien
Fred Tompkins

William Zolla

William Zolla called the meeting approximately at 6:30 p.m.

A motion to accept the revised minutes of September 25th meeting was made by Mike Gill. Seconded by Paul Hopfgarten. Vote was unanimous.

Chairman's Report:

Commission has been invited to attend a meeting of the Friends of Education on Thursday, October 12th at 7:30 p.m. held at the Grinnell School cafeteria.

We received an invoice dated 8/31/95 from Mr. Gross in the amount of \$6341.94 for services rendered which has been approved and processed. Chair made a \$16.00 adjustment. Total legal expenses to date \$8894.39.

The Chair asked Mr. Gross about the Trustees of the Trust Funds. He believes that this is beyond the home rule powers and feels you can not eliminate these trustees but you can appoint or elect them. RSA 31:22 mandates all such trusts shall be administered by a board of at least three trustees. Regarding recall - There is no general authority in state statutes for cities to provide for recall procedures. District Councilors - He had no problem with our decision and quoted RSA 49D:8. There was a discussion on how the Trustees of the Trust Fund would be elected or appointed. A motion was made by Roy in regards to the Trustees of the Trust Fund. The motion is as follows: 4.1 C There shall be a board of 3 Trustees of Trust Funds whose powers and duties are provided by State law. Trustees of the Trust Fund shall be appointed by the City Council for a term of 3 years, one Trustee to be appointed each year. Vacancies shall be filled by appointment by the City Council for the unexpired term. A final report shall be submitted to the City Council within 30 days following the close of the fiscal year. Jack seconded. Vote 7-2 Jim and Paul voted no. Motion passed.

Section 5.5 Election of Councilors was drafted by Sandra and Paul Hopfgarten. Chair read the draft. Paul explained the proposal that the one at large councilor who can live anywhere be elected at the same time as the 4 district councilors who reside in the district and are voted just by

the district and have the other 4 councilors elected in the other year. Discussion followed. Paul moved to reconsider Section 5.1. Jack seconded. Discussion followed. Vote 8-0-1 Mike abstained. Discussion on the mayor being elected. The mayor could be elected at large and appointed by the councilors so the mayor can have a vote. Paul made a motion to keep 5.1 as is. Seconded by Jack. Vote 7-2 Mike and Roy voted no. Motion passed.

Section 5.5 Election of Councilors - Discussion on whether to have election every year or every two years. Jack made a motion to have annual elections. Seconded by Jim. This motion had previously been voted on.

Fred made a motion to read All City Councilors shall be elected for a term of 2 years. On the even numbered years the district councilors as well as the councilor at large from at large will be elected and on the odd numbered years the 4 district councilors one from each district but to be elected at large. Jack seconded. Discussion. Vote 8-0-1 Mike abstained. Motion passed.

Article 6 Ordinances -- Section 6.1 Municipal Legislation Jim read. Roy made the motion to move as read. Jack seconded. Vote 9 yes. Motion passed.

Section 6.2 Ordinances read by Mike. Jack made a motion to move as read and seconded by Jim. Discussion. Fred made an amendment to read "An ordinance may be introduced by any Councilor at any regular or special meeting of the City Council provided it appear on the agenda." Seconded by???? Vote 9 yes. Motion passed.

Section 6.3 Emergency Ordinances read by Sandra. Roy made a motion to move as read. Seconded by Jack. Fred made an amendment to end sentence after generally. and delete up to specific terms. And starting new sentence with A preamble... Jack Seconded. Vote 9 yes. Amendment passed.

Section 6.4 Codification of Ordinances read by Jack. Mike made a motion to move as read. Seconded by Grant. Vote 9 yes. Motion passed.

Section 6.5 Existing Ordinances read by Jack. Grant made a motion to move as read. Seconded by Roy. Vote 9 yes. Motion passed.

Section 6.6 Charter Objection read by Jack. Roy made a motion to move as read. Seconded by Paul. Vote 9 yes. Motion passed.

Article 7 General Powers Section 7.1 previously voted on.

Section 7.2 Regulation of Fees and Other Charges read by Fred. Jack made a motion to move as read. Seconded by Paul. Vote 9 yes. Motion passed.

Section 7.3 Delegation of Powers read by Fred. Fred made a motion to move as read. Seconded by Paul. Vote 9 yes. Motion passed.

Section 7.4 Inquires and Investigations read by Fred. Roy made a motion to move as read. Seconded by Fred. Vote 9 yes. Motion passed.

Article 8 Administration of Government Section 8.1 City Administrator read by Fred. Fred made a motion to move as read. Jim seconded. Fred made an amendment to read at least 6 members instead of 5 of Council. Paul seconded. Vote 9 yes. Amendment passed.

Section 8.2 Qualifications read by Fred. Bill made a motion to move as read. Jim seconded. Discussion. Roy made an amendment to delete words after public office and restart at "nor engage." Fred seconded. Vote 5-4 Paul, Sandra, Jim, and Bill voted no. Amendment passed. Mike made an amendment to read 2/3 approval of the City Council instead of majority. Roy seconded. Vote 7. Vote 4-3 amendment ~~7-2~~ Paul and Sandra voted no. ^{motion 8-2} Amendment ~~passed~~.

Section 8.3 Evaluation of Administrator's Performance read by Fred. Fred made a motion to adopt as read. Jack seconded. Discussion. Vote 8 yes. Motion passes.

Section 8.4 Removal of Administrator read by Mike. Roy moved to accept as read. Seconded by Mike. Mike made an amendment in 8.4 (A) majority to 2/3rds majority and in 8.4 (B) majority (six lines down) to 2/3rds majority and on page 40 majority to 2/3rds majority. Discussion. Amendment died. Fred made an amendment to delete public before hearing and add after hearing public or non-public hearing in (B) line 2 and delete public in line 4 and after hearing add public or non-public and on line 8 change after until the to read the final resolution of removal which shall be effective immediately upon adoption. Vote 7-1 Paul no. Amendment passed. Amendment was made to read Immediately upon adoption said final resolution shall be made no later than 7 days following of the public or non-public hearing. Seconded by ?? Vote 7-1, Paul voted no. Amendment passed. Vote on 8.4 A and B as amended. Vote 7-1 Paul voted no. Amendment passed.

Section 8.5 Acting City Administrator read by Fred. Mike moved to approve as read. Seconded by Sandra. Discussion. Vote 8 yes. Motion passed.

Section 8.6 Powers and Duties of Administrator - Grant
tabled to next meeting.

Motion to adjourn meeting.

Meeting was adjourned at 9:45 p.m.

R.F./C.G.

cc min #14

DERRY CHARTER COMMISSION
MEETING

September 25, 1995 at TOWN HALL

Members Present:

Grant Benson	Paul Hopfgarten	William Zolla
Jack Dowd	Sandra Hopfgarten	
Roy Feinauer	James Lupien	
Mike Gill	Fred Tompkins	

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of September 18th meeting was made by Paul Hopfgarten and seconded by Grant Benson. Vote was unanimous except for Fred Tompkins.

Jack asked if the changes in the Charter could be highlighted. Roy will highlight the changes.

Chairman's Report:

The Chairman contacted Mr. Gross in regards to the City Charter, Trustees of the Trust Fund and Library Trustees. Under a city charter they would be selected by appointment unless the new charter specifically provides otherwise. RSA 49C:18 - Invests appointive power in the city manager but would allow the charter to do otherwise. To carry out an appointive pattern it would use the administrative code which we do not have. In regards to the Library Trustees RSA 202A:8 provides in cities, trustees are elected as provided in the charter. Under Special Charter Provision it is open to the commission to recommend that Derry continue to elect such offices and in that case present Charter sections 4:1 A, B, and C could be carried forward into the new charter. Under 8.8 of the Derry Charter it could be forwarded into a new city charter that the Library Trustees would be appointed by the City Manager subject to confirmation vote of the council. The Chairman will obtain a clarification of Section 8.8 in order 8.8 allows us to elect all the trustees. Mrs. Robie asked if the Treasurer would be elected or appointed. The Treasurer would be appointed at this time. Paul asked if the same option would apply with the Clerk and Treasurer as with the Library Trustees? Answer was no. Fred asked under a city government are they required to have Trustees of the Trust Fund. Grant read from the city charter of Keene that they do have Trustees of the Trust Funds. Jack asked what do the Trustees of the Trust Funds do. The Chair said they are responsible for the funds. Fred feels that the duties of the Trustees of the Trust Fund could be included in the Treasurers responsibilities. Jack stated the Library Trustees are responsible for the Library, and all the gifts

September 25, 1953 at Town Hall
 7:00 p.m. to 8:00 p.m.
 DEBRY CHARTER REVISIONS
 MEETING
 The following members of the
 Debry Charter Revision Committee were present:

- | | | |
|------------------|------------------|------------------|
| William J. Jolly | Paul Hoptgarten | Members Present: |
| Alvin J. Jolly | James Hoptgarten | Grant Benson |
| | James Hoptgarten | Jack Doherty |
| | James Hoptgarten | Roy Peterson |
| | James Hoptgarten | Nice Gill |

William Jolly called the meeting to order at 7:00 p.m.
 A motion to accept the minutes of September 18th meeting was
 made by Paul Hoptgarten and seconded by Grant Benson. Vote
 was unanimous except for Fred Thompson.
 Jack asked if the changes in the Charter could be
 highlighted. Roy will highlight the changes.

Chairman's Report:

The Chairman contacted Mr. Gross in regard to the City
 Charter, trustees of the Trust Fund and Library Trustees.
 Under a city charter they would be selected by appointment
 unless the new charter specifically provides otherwise. RSA
 497:15 - provides appointive power in the city manager but
 would allow the charter to do otherwise. To carry out an
 appointive pattern it would use the administrative code
 which we do not have. In regard to the Library Trustees
 RSA 200:10 provides in cities, trustees are elected as
 provided in the charter. Under Special Charter provision it
 is open to the commission to recommend that Debry continue
 to elect city officers and in that case grant Charter
 sections 415, 416, 417 and 418 of the Debry Charter could be
 forwarded into a city charter that the Library Trustees
 would be appointed by the City Manager subject to
 confirmation by the Council. The Chairman will obtain
 a clarification of the law. He is under 415 allows us to
 elect all the trustees. Mr. Ross said if the Treasurer
 would be elected or appointed. The Treasurer would be
 appointed at this time. Paul asked if the same option would
 apply to the Library Trustees as with the Library
 Trustees. The answer was yes. The Chairman said the Trust
 Trustees are they required to have trustees of the Trust
 Fund. Paul asked them the City Charter of 1940 that they
 do have Trustees of the Trust Fund. Jack asked what do the
 Trustees of the Trust Fund do. The Chair said they are
 responsible for the Trust Fund. Fred said that the duties of
 the Trustees of the Trust Fund could be included in the
 Debry Charter. The Chairman said that the Library
 Trustees are responsible for the Library and all the other

and everything that comes to the Library. There has been no problem with the Library, it is in their budget.

Roy made a motion that we have the Trustees of the Trust Fund appointed by the city council. Motion died.

Fred made a motion to assign the duties of the Trustees of the Trust Fund to the Treasurer of the City. Jack seconded. Discussion followed. Vote 5-4 Jim, Sandra, Paul and Bill voted no. Motion carried.

Mrs. Robie asked what the salary of the full time Treasurer would have. Chair stated that it would be up to the City Council.

Section 4.1 Section A is stricken. Section B becomes A and C becomes B.

The Chair would like an assessment on what percentage of taxes based is paid for by single family houses versus rental units or two family houses. Fred will look into this and get back to the commission at the end of October.

Section on Recall Petition. Roy talked to Bill Gardner on August 20, 1992 about recalls because Durham and Hooksett had a recall section in their charter. At that time Mr. Gardner advised that he would not approve of the recall because there was nothing in the state law that provided for it and there could be many problems. The reason why this was in Durham and Hooksetts' charters was because he wasn't required to go over all the elements of the charter but now he is and he would not approve of it. Mike made a motion to have a new section that deals with a recall petition. Paul seconded. Jim made an amendment that if the motion passes, it will be submitted to our attorney for his opinion. Sandra seconded. Vote 6-3 Jack, Fred and Roy voted no.

The Chair stated that the motion is do we put a recall petition into the Charter? Seconded by Paul.. Discussion followed. Paul withdrew his second and Mike withdraw his motion. The motion was tabled.

Jack made a motion to request the attorney what his opinion of a recall petition would be allowed in this charter or not. Mike seconded. 9 Yes.

ARTICLE 5 THE GOVERNING AND LEGISLATIVE BODY. Section 5.1 The City Council Chair read Section 5.1. Mike made a motion to change 7 councilors to 15 councilors and 0 councilors at large. Paul seconded. Paul withdrew his second and Mike withdrew his motion. Discussion followed. Paul would like 15 councilors, 7 at-large and 2 from each district. Jack felt with 15 councilors there would be total confusion. Fred feels 15 is too large and 7 would be

sufficient. Roy stated that the school is taking a wait and see attitude. They are going to see what we are going to do in regards to the number of councilors. They are looking for a level playing field. If we go to 15, they will feel overwhelmed with the action we are taking. He feels that the largest group would like 7 councilors and the mayor to be elected from the 7. Roy proposed that the mayor be elected by a vote of the entire council from the candidates of the at large councilors. The Chair feels that 15 are too many and 7 are too few. It would double the work of the council. Mike feels 7 councilors is not enough, 15 is too much, 9 maybe, 11 not as maybe. Jim feels 15 too many, 7 too few, 9 you can get things accomplished. Fred wondered how people like 2 year terms. Majority was 2 year terms. Fred asked if you wanted 4 districts. Answer yes. How can we accomplish this with 4 district? One from each district and five at large and have the body select the mayor. Sandra's preference is 11, 1 from each district, 7 at large. Paul could live with 11. Roy would like to have 4 councilors one from each district, 5 councilors at large and the mayor would be elected by the council. Bill is in favor of 11 than 9. Grant wondered what the position of the mayor would be. Roy stated the chairman. Paul asked if you could have a city council without a mayor. Roy stated you had to name someone as chair. Jim suggests 2 councilors from each district and one at large, 1 councilor from each district voted every year with one year to also elect the at large councilor. Jack feels if you limit the numbers, you are limiting your representation. Jack is in favor of 7 members and feels more work gets done and with the more members you have, you are clogging the system. Grant suggests 1 councilor from each district, 1 councilor at large from each district but voted on by all the people.

Fred made a motion that we have 8 councilors and a mayor. That 4 councilors be elected representing their separate district and the other 4 councilors be elected at large representing their specific district. The mayor is elected at large. Grant seconded. Discussion followed. Vote 4-5 Mike, Jim, Paul, Roy and Bill voted no.

Mike made a motion stating the city should consist on 9 councilors of whom 5 councilors should be elected at large. Roy seconded. Discussion followed. Jack made an amendment to have election every year. Roy seconded. Motion was for 9 councilors one from each district and 5 at large. Vote 2-7, Grant, Jim, Jack, Fred, Sandra, Paul and Bill voted no.

Jim made a motion that you have 11 councilors, 2 from each district, 2 at large, and 1 mayor voted on at large. Paul seconded. Vote 3-6 Grant, Jack, Fred, Sandra, Roy, and Bill voted no.

Bill made a motion that we have 11 councilors, 2 from each district, 3 at large. Paul seconded. Discussion. Vote 4-5, Grant, Jack, Fred, Sandra, and Roy voted no.

Jack made a motion for 9 councilors. Roy seconded. Vote 5-4, Mike, Sandra, Paul and Bill voted no. Motion passed.

Fred made a motion to elect 9 councilors 5 at large - 4 from each district to be elected at large and 1 at large to be elected at large, and 1 district councilor to be elected from each district. Paul seconded. Discussion. Vote 6-3, Mike, Roy and Bill voted no. Motion passed.

Section 5-2 Terms of Office. Paul made a motion to have 2 year terms. Roy seconded. Vote 9 yes. Motion passed.

5 minute break. During the break Bernie Resnick from Cable 38 asked if the commission would change the meeting time to 6:30 p.m. to 9 p.m. There is a conflict with a commitment they made of showing the Pinkerton Football games at 9 p.m. Vote was unanimous.

Section 5-3 Qualification for Office as City Councilor. Mike made a motion to delete be a resident of the City for at least one calendar year before the election. No second.

Fred made a motion to accept Section 5-3 as read. Jim seconded. Vote 8-1, Mike voted no. Motion passed.

Section 5-4 Selection of Chairman and Chairman Pro Tem Roy moved to amend it to say at the meeting held the first working day of January one of its members to be a mayor for a term of two years. No second. Motion dies.

Fred made a motion to change the heading to read Selection of Mayor and Vice Mayor and to at its first regular meeting in January, choose one of its members mayor for a term of one year. The Council shall choose one of its members Vice Mayor, for a term of one year, who shall act in the absence or disability of the Mayor. In the event of a vacancy occurring in the office of Mayor, the Council shall choose one of its members Mayor at the next regular meeting to serve for the unexpired term. The Mayor etc. Jack seconded. Discussion followed. Paul made an amendment to 5-4 to add a sentence that only councilors elected at large whether representing the district or not but elected at large may be eligible to be selected as mayor or vice mayor. No second. Amendment dies. Vote 8-1 Paul voted no. Motion passed.

Section 5.5 Election of Councilors Fred made a motion to have section 5.5 read as City Councilors shall be elected for terms of 2 years. Bill asked for a volunteer to draft this section up with accordance with what was done in 5.1.

Roy made a motion to table. Sandra seconded. Vote 9 yes. Sandra and Paul to work on this section.

Section 5.6 Removal of Councilors. Chair read 5.6. Roy made a motion to move as accepted as read. Jack seconded. Vote 9 yes. Motion passed.

Section 5.7 Filing of City Council Vacancies. Chair read 5.7. Fred made a motion to change the word Chairman of the Council to Mayor. Jack seconded. Discussion. Vote 4-4-1 Motion dies.

Mike made a motion read in case of a vacancy in the City Council for any reason, the remaining City Councilors shall, appoint the next highest vote recipient from within the appropriate district,... and change Chairman of the Council to Mayor. Jim seconded. Vote 5-4, Roy, Fred, Jack and Bill voted no. Motion passed.

Section 5.8 Compensation; Expenses. Chair read 5.8. Roy made a motion to move as read. Seconded by Mike. Discussion. Paul made an amendment to remove the words then current term of office and replace with the remainder of the councilors service in said office. Paul withdrew his amendment. Vote 9 yes.

Section 5.9 Rules; Meetings; Quorum Chair read 5.9 A and B. Fred made a motion to change Chairman of the Council to Mayor. Roy seconded. Discussion. Paul made an amendment to 5.9 (B) to strike the word majority of all members and change that to two thirds. Jim seconded. Vote on the amendment. 9 in favor. Amendment passed. Vote on 5.9 with changing Chairman of the Council to Mayor and change majority to two thirds. Vote 9 yes. Motion passed.

Section 5.10 Council Staff. Chair read 5.10. Roy made a motion to move as read. Paul seconded. Vote 9 yes. Motion passed.

Section 5.11 City Councilors; Incompatible Offices. Chair read 5.11. Jack made a motion to move as read. Fred seconded. Vote 9 yes. Motion passed.

Motion to adjourn. All in favor.

Meeting was adjourned at 10:55 p.m.

R.F./C.D.

cc min #13

DERRY CHARTER COMMISSION
MEETING

September 18, 1995 at TOWN HALL

Members Present:

Grant Benson	Paul Hopfgarten	William Zolla
Jack Dowd	Sandra Hopfgarten	
Roy Feinauer	James Lupien	
Mike Gill (8:30 p.m.)	Fred Tompkins	

William Zolla called the meeting to order at 7:00 p.m.

Chairman polled those present to accept the minutes of September 11th meeting. 7 yes.

Chairman's Report:

Chairman read a letter from Mr. Gross giving a revision of Section 7.1 allowing the City Council to exercise financial powers of the school district meeting. The city council assumes the legislative powers of the school district. The revision is as follows: SECTION 7.1 General Powers of the City Council

(A) Subject to the provisions of this Charter, as the elected body serving as the legislative body of the City, the City Council shall exercise all the powers and duties of selectmen, city councils and boards of aldermen and such other powers and duties provided by State statute or the Constitution of the State of New Hampshire.

(B) Without limiting the generality of the preceding subsection, the City Council shall also exercise all of the powers conferred by law on annual or special meetings of the Derry Cooperative School District, except the power to elect members of the Derry Cooperative School District Board of Education which power shall continue to be exercised by the qualified voters of Derry. It is the intent of the inhabitants of Derry to transfer to the City Council the powers heretofore exercised in school district meetings, other than the power to elect School Board members and except for the limitation, to constitute the City Council as the legislative body of the Derry Cooperative School District. The district meeting of the Derry Cooperative School District is hereby abolished.

(C) Except as otherwise provided by State law or this Charter, the powers of the City Council may be exercised in a manner determined by it.

Discussion. Paul asked about article of agreement. Bill noted that the school has no articles of agreement regarding the cooperative district -- that it is a legislative matter rather than a charter matter. Building aid is not affected. The school board still conducts ^{election} the officers of the school district, but the approval of the budget, which is the duty of the legislative powers of the district, will be taken by

the city council. Further discussion as to transfer of funds from the school department to or from city departments or whether the council will be able to transfer monies within the school budget. Fred explained that in his opinion the council would only have final authority on the bottom line although if the council decided to change the original budget, it should go through the budget and have logical reasons why it should be increased or decreased. Jim suggested a spending cap would solve some of the problems. Jack's opinion was that the council only had the right to vote on the bottom line, but should know what was in the budget so it would not act irresponsibly. Sandra researched if, as a city, we would be restricted to different standards, the school district would be restricted to different standards than a town would be. She called Secretary of States office, that, in itself, would not be true but it is possible that a city would be held to stricter adherence to the existing minimum standards than a town would be. She asked Bob Ambrose the following questions 1 - If the school board submits a budget that does not meet minimum standards who is held liable? Supreme Court *has (Laconia case)* concluded that, as stated in the city charter, the city council had the authority over appropriation subject to two recognized limitations. 2 If city council who can vote on only the bottom line budget, if they vote to reduce the school board proposed budget, can they do that with the stipulation that the reductions are not to come from any areas required to meet the minimum standards? City Council ¹⁹ required, if they are cutting the school board proposed budget, is to see to it that none of the areas required to meet minimum standards to be cut. 3 If we are going to be in a situation where the school board's hands will be tied, and are going to have to provide ^(2.5) adequate filing space and some of the other standards at the expense of the discretionary programs? He believes it is probably true, but he is not sure. Fred made a motion to substitute the existing 7.1 with what Attorney Gross suggested in his memorandum dated September 18th Section 7.1 A, B, and C. Seconded by Jim. Vote 7-1 Paul voted no.

Article 3 Section 3.1 (A) Agreed last week to leave alone.

Section 3.1 (B) Paul made a motion of Section 3.1 (B) Group Petitions, Action Required The City Council shall hold a public hearing and act by taking a vote on the merits of every petition which is addressed to it and which is signed by 25 registered voters. The hearing shall be held by the city council or a sub-committee thereof at least one half the members of the entire council and action by the city council shall be taken not later than 60 days after the petition is filed with the City Clerk. Hearings on two or more petitions filed under this section shall not be held at the same time and place (remainder of section unchanged). Motion dies.

Fred moved that the number 100 be changed to 25 registered voters. Jack seconded. Vote 8 yes.

Roy made the motion to putting a comma after implementation of an ordinance, adopting a budget, or enacting a land use regulation. Seconded by Jack. Vote 7 to 1 Fred voted no.

Section 3.2 Initiative Petition Paul has a question on 3.2 (B) is that opinion of the prior town council is that what we were trying to do was unlawful in this section, am I correct in my interpretation? Fred stated no. Paul asked, Is the attorney's determination of whether the petition is lawful or not the only means by which the city council can deny that the petition moves forward? What discretion would the city council have other than the attorney saying this is not legal? Answer none. Paul made a motion to move Section 3.2 A and B to remain as written. Seconded. Vote 8 yes.

Section 3.3 Referendum Petitions Roy made a motion to adopt as read and seconded by Mr. Dowd. Paul made an amendment on Section B number 2 to read The filers of the petition ^{can} withdraw it ^{if} said filers being at least 10% of those names on the petition; or 3 - 30 days have elapsed after a vote of the City not to uphold the petitioners on the measure of part thereof protested. After a discussion, Paul withdrew his motion. Paul would like a definition of filers of the petition ^{necessary to} withdraw it. Does that mean the first ten signers; if they choose to withdraw it, is it withdrawn? How do you know what the majority is? Fred said you would count it up. Bill feels that #2 doesn't belong in at all. Paul feels that it would ^{m.o.} lead people. Jack said it clarifies that people can withdraw their names. Paul made a motion that Section 3.3 (B) striking number 2 and making 3 number 2. Jim seconded. Vote 7 to 1 Roy voted no.

Fred feels that section 3 needs work. We have to look into the effectiveness of votes ~~of~~ the council in someplace else in the charter. There should be an article that says the vote of the council becomes final. It is in the charter someplace but it should be cross referenced to make sure that it works. Paul said it was 6.3 (D) perhaps.

Jack said there was a motion on the floor. Paul believed he had an amendment on the floor. A motion on 3.3 as amended A, B, and C. Vote 8 yes.

Section 3.4 Submission to Proposed Measure to Voters Paul recommended the insertion of a new section of 3.4 part of which would make the existing Section 3.4 and 3.5 into 3.5 and 3.6. This is for a re-call petition. Paul would like to table for a week before acting upon it. Roy felt that they were going to include it in the last charter and was told that it was illegal ^{as} and it has never been brought to

court to determine whether it is valid or not. Motion to table. Jim seconded. Vote 8 yes.

Article 4 Judicial and Administrative Boards Section 4.1 Elected Boards (A) Trustees of Trust Funds Fred asked if the Trustees of the Trust Fund continue to exist under a city form of government. Answer- don't know. Roy moved to table until the next meeting. Grant seconded. Vote 8 yes.

Section 4.2 Administrative Boards Paul asked about 4.1 B and C they were not tabled only 4.1 A. Roy made a motion to change (B) to be Derry Public Library Trustees. He read a letter from the Board of Trustees stating that the library's name is Derry Public Library not MacGregor Library. Seconded by Jack Dowd. Paul made an amended to the motion on the table to include at the end of the last sentence where it says Vacancies shall be filled by appointment by the City Council for the unexpired term he would like to remove the words for the unexpired term and replace with the words as provided for in section 4.5 (A). Amendment died. Motion to change MacGregor Library to Derry Public Library. Vote 5-3 Jim, Paul and Bill voted no.

Grant read from the Keene Charter in reference to Trust Funds. Fred wouldn't want to follow the Keene Charter.

Motion was made by Jack to accept 4.1 C as written. Roy seconded. Vote 9 yes.

Section 4.2 Administrative Boards (A) Planning Board, (B) Housing and Redevelopment Authority, (C) Conservation Commission, and (D) Historic District Commission. Roy made a motion to change 3 ex officio members shall consist of the City Administrator or designee, an administrative officer etc. in section A and accept B, C, and D as read. Fred seconded. Discussion Vote 9 yes.

Section 4.3 Judicial Boards Paul made a motion to accept 4.3 with one change that in no more than "one" alternate member should be changed to "2". Roy seconded. Vote 9 yes.

Fred believes there is a change in 4.2 (D) Historic District Commission and will come back to the commission with the change.

Section 4.4 Terms of Office Roy made a motion to change to The terms of office of all members elected or appointed or of appointed boards or committees shall begin on the first working day of January and end December 31 of the year completing the term of office. Discussion followed. Vote 9 no. To keep 4.4 as written. Vote 9 yes.

Section 4.5 Certain Vacancies Roy made a motion to accept 4.5 A and B as written. Grant seconded. Discussion

followed. Paul would like to amend 4.5 B to add This section shall also apply at the normal expiration of terms. Sandra seconded. Discussion followed. Sandra withdrew her second and Paul withdrew his amendment. Paul would like them to give the alternate the right for first refusal. Jack feels that B should read vacancies in appointed boards by regular members. Fred made an amendment that 4.5 B to say Unless otherwise provided in this Charter, vacancies occurring within the composition of regular members of appointed boards, commissions or committees shall be filled by available alternate members selected by City Council for the unexpired term. Jack seconded. Discussion followed. Vote 9 yes. Paul made an amendment to add the sentence, This section shall apply at the normal expiration of terms. Amendment died.

Roy made a motion that all members or alternates of committees or boards shall be voters of the City of Derry. Motion died.

Section 4.5 A as written and B as amended. Vote 9 yes.

Section 4.6 Board Membership Restriction Mike made a motion to move as approved. Grant seconded. Paul made an amendment to add the words or elected after the word judicial in both occurrences. Motion died.

Fred made the motion that 4.6 to read as follows: No member or alternate member of any appointed or elected board of the City shall serve on any other appointed or elected board of the City, except for ex officio members. Paul seconded. Discussion. Vote 9 yes.

Section 4.7 Other Administrative Committees Paul made a motion to move as read. Sandra seconded. Fred moved that 4.6 and 4.7 to be renumbered 4.6 as 4.7 and 4.7 as 4.6. Roy seconded. Vote 9 yes.

Jack made a motion to approve Section 4.6 as written. Paul seconded. Roy made an amendment to add "All committees or boards except as otherwise stipulated by State Law or by this Charter shall be advisory only. Amendment died.

4.6 as written. Vote 9 yes.

4.8 Meetings with City Council and City Administrator

Fred moved to change the month of January to July. Paul seconded. Discussion followed. Vote 9 yes. 4.8 as amended. Vote 9 yes.

Jack made a motion to adjourn the meeting. Paul seconded. Meeting adjourned at 9:40 p.m. R.F./C.G. cc min #12

DERRY CHARTER COMMISSION
MEETING

September 11, 1995 at TOWN HALL

Members Present:

Grant Benson	Paul Hofgarten	William Zolla
Jack Dowd	Sandra Hofgarten	
Roy Feinauer	James Lupien	
Mike Gill	Fred Tompkins	

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of August 28th meeting was made by Fred Tompkins and seconded by Grant Benson. Vote was unanimous.

Chairman's Report:

Received a reply from Mr. Gross in regards to combining all budgets of the town. He has divided the situations into three elements 1 - School District 2 - School Board 3 - District Meeting and the various RSAs that govern it. His conclusion is that we can do what we have voted to do as long as we are careful not to include the election of the School Board. The Chair passed out a copy of Mr. Gross's letter to each member of the commission. The Chair will forward a copy of Mr. Gross's letter to the School Administration. Motion was made and seconded to handle the opinions as they come in and give the School Department a copy of anything that affects them which they pass onto their attorney. Mike asked why do we want to start to forward information to the school? Bill stated just for cooperation and communication between the commission and the school board. Vote 8-0-0

Review Section 2, 3 and 4. Fred asked that on the front page if people want to have their name different they should tell someone. Bill said to submit a change in writing to Roy at the next meeting. Fred also stated on page 2 it should say To the Voters of the Town of Derry not City and also should say it is the Interim Report not Final Report by the Town not City on May 23, 1995 etc. Bill stated he didn't ask for a review of this page because he was going to write it.

A motion was made to go to public input. Motion was made and seconded. All in favor.

Mark Donovan of the Derry Taxpayers Asso. read his letter of recommendations to the Charter Commission. He believes that a town provides the most options to the citizens of Derry, that House Bill 141 should be included in the charter and that the School district budget should fall under the

approval of the Town Council. A copy of this letter will be placed in the correspondence folder at the Town Hall.

Mrs. Robie brought a copy of a newspaper article entitled "Rochester Teachers Seek Shift of Council. She also opposes becoming a City and feels it won't work. She feels that we only want to become a city to get the school budget under the council.

Bill stated to start with Section 2. There was a discussion on Section 1.5 Districts. Roy made a motion to incorporate a 1.6 and label it wards. Paul seconded. Paul asked if in Concord was there another body that performed the function on a citywide basis, i.e., The same function that's provided by a ward selectman on a ward basis. Roy - yes. Fred feels that wards are covered under Section 2 as a single ward and 4 districts as it would be the election officials would be the ward clerk, ward moderator and supervisors of the checklist and the ward selectman. (3 selectman, 3 supervisors one clerk and one moderator). Roy quoted from the Concord charter on Wards. Fred asked if it was a Home Rule Charter. Roy stated it was a Home Rule Charter and passed in 1992. Motion is do we incorporate a new section 1.6 into Section 1. Vote was 6 to 3, Fred Tompkins, Jack Dowd and Bill Zolla voting no.

Bill stated that Section 1.5 will remain as District and "continue to" to be deleted.

Section 2.1 Fred changed or added ward to the paragraph and questioned if the supervisors of the checklist should become ward selectman. Roy felt it should be added to Section 2.4. Fred made a motion to give the supervisors of the checklist the duties of the ward selectman. Paul seconded. There was further discussion. Vote 6-1-2 Paul voted no, Grant and Mike abstained. Vote was moved.

Fred made a motion that the supervisors of the checklist replace the selectman, ^{to be in} Section 2.4. Roy seconded. Vote was 8-1, Paul voted no.

Fred made a motion to make changes in Section 2.1 Seconded by Paul. Bill stated the motion was to change to ward moderator, take out city clerk and put ward clerk and take out City Clerk and put Ward Clerk.

Roy made an amendment to change Section 2.1 to read Ward Officials. Jack seconded. There was further discussion. Roy rescinded his motion. Vote 9 yes on Fred's motion.

Fred made the motion to change the title of Article 2 from Election Officials to Election Officers. Jack seconded. Vote 9 yes.

Section 2.2 Moderator. Fred made the motion to change the word City in the first line to ward. Paul seconded. Roy made an amendment to change in the second sentence the word city to ward. No second. Amendment dies and goes back to the original motion. Paul made an amendment to have the first sentence say a ward moderator instead of moderator of the ward. Fred seconded. Vote 8-1 Roy abstained. Bill stated that the motion is there shall be a ward moderator. Original motion voted: 9 yes.

Section 2.3 Supervisors of the Checklist Jim made a motion that the supervisors of the checklist hold office for 2 years instead of 6. Jim withdrew his motion because state law is for 6. Motion was made by Paul to accept Section 2.3 as written. Seconded by Jack. 9 yes.

Section 2.4 Duties of the Supervisors of the Checklist Roy made the motion to add "and shall perform the duties pertaining to the office of ward selectman, and for all purposes requiring such officers, shall be deemed selectmen of the ward". Voted on previously at same time ~~with~~ Section 2.1.

Section 2.5 Conduct of Elections Roy made a motion that the election should be held on the first Tuesday following the first Monday of November of the odd numbered years. Fred seconded. There was further discussion. Paul made an amendment to delete the present Part B to read "The City elections shall be held in two parts, with a primary occurring on the Tuesday immediately following the second Monday of September. Two candidates for each office up for election shall be nominated at this time. The Final City elections shall be held on the Tuesday immediately following the second Monday in November. These elections shall be held on an annual basis. The City Council shall establish other election dates ONLY to the extent allowed by state law. Seconded by Jim. Discussion followed. Vote 1-8 Paul voted yes. Amendment was defeated. Vote on the motion 2-8. Roy and Jack voted yes. Motion defeated. ORIGINAL

Fred made a motion that the city election be held in two parts with the primary occurring on the Tuesday immediately following second Monday in September with two candidates for each office to be nominated at this time. The final city election to be held on the Tuesday immediately following the second Monday in November. Paul seconded. Discussion followed. Vote 3-6 Sandy, Paul and Grant voted yes. Motion defeated.

10 minute break.

Jim made a motion that the city election shall be held on the Tuesday immediately following the second Monday in November and that these elections should be held on an

annual basis. Paul seconded. Discussion. Vote 6-2-1, Fred and Mike no, Roy abstained. Motion passed.

Section 2.5 C and D Bill asked to approve 2.5 as amended. Paul seconded. Vote 8-1 Roy voted no.

Section 2.6 Preparation of Ballots Fred asked do we want to change the order in which the people appear on the ballot? Jim made the motion "the names and residence of candidates for the same office shall be printed on the ballot in the order in which they may be drawn by the ward clerk whose duty it shall be to make such drawing and to give each candidate an opportunity to be present, there at, personally or by one representative". Jack seconded. Discussion. 9 yes. Vote on 2.6 as amended. 9 yes.

Section 2.7 Preservation of Ballots Fred moved to approve as read. Seconded by Paul. Discussion. 9 yes.

Section 2.8 Contested Elections Fred moved to adopt Section 2.8 (A) as follows: changing City Clerk to Ward Clerk in two locations and change City Clerk to City Collector. Seconded by Grant. 9 yes.

Section 2.8 (B) Bill read B. Roy feels that the final results have to be declared by the City Council. Fred made a change in (C) the word City to Ward Clerk, (D) City Clerk to Ward Clerk and City Clerk in the next to the last line to City Collector. Jack Seconded. 9 yes.

Section 2.9 Certification of Election and Appointment. Fred made the motion to accept with the addition of "by the Board of Election Officers" at the end of the first sentence of Section A, Section B and C leave the same, Section D to change on the first Monday to at the first working day of January. Mike seconded. Discussion followed. Vote 6-3, Sandy, Paul, Jim voted no. Motion passed.

Mike: Is this Section 2 the right place to consider putting in whoever takes office or runs for office has paid his taxes? Fred stated you can not prevent anyone from running for office if they haven't paid their taxes.

Article 3 Petitions: By letter etc. Free; Initiative; Referendum Section 3.1 Free Petition. Paul made an motion to have Section 3.1A read as his hand out. Discussion followed. Vote 4-5 Mike, Jack, Fred, Roy and Bill voted no. Motion defeated.

Article 3.1 (A) Any changes on A, no. B Paul made a motion to change Part B as his hand out states striking the word registered in registered voters putting in votes cast.

Grant made a motion to adjourn to the next meeting date and start with Article 3. Jim seconded.

Meeting adjourned at 10:35 p.m.

R.F/C.G. cc min #11

Grant made a motion to adjourn to the next meeting date and
was seconded by Paul. Motion carried. Meeting adjourned at 10:30 p.m.
Section 2.5.5 Bill 5. Bill 5 was read and discussed. Motion
to amend was seconded by Paul. Motion carried. Meeting adjourned at 10:30 p.m.

Section 2.6. Motion to change the name of the City of
Portland to the City of Portland, Oregon. Motion carried. Meeting
adjourned at 10:30 p.m. Section 2.7. Motion to change the name of the
City of Portland to the City of Portland, Oregon. Motion carried.
Section 2.8. Motion to change the name of the City of Portland to the
City of Portland, Oregon. Motion carried. Meeting adjourned at 10:30 p.m.

Section 2.7. Motion to change the name of the City of Portland to the
City of Portland, Oregon. Motion carried. Meeting adjourned at 10:30 p.m.

Section 2.8. Motion to change the name of the City of Portland to the
City of Portland, Oregon. Motion carried. Meeting adjourned at 10:30 p.m.

Section 2.8 (a). Bill 5. Bill 5 was read and discussed. Motion
to amend was seconded by Paul. Motion carried. Meeting adjourned at 10:30 p.m.

Section 2.9. Motion to change the name of the City of Portland to the
City of Portland, Oregon. Motion carried. Meeting adjourned at 10:30 p.m.

Mike: Is this Section 2 the right place to put the
motion to change the name of the City of Portland to the City of
Portland, Oregon? Motion carried. Meeting adjourned at 10:30 p.m.

Article 3. Motion to change the name of the City of Portland to the
City of Portland, Oregon. Motion carried. Meeting adjourned at 10:30 p.m.

Article 3. Motion to change the name of the City of Portland to the
City of Portland, Oregon. Motion carried. Meeting adjourned at 10:30 p.m.

DERRY CHARTER COMMISSION MEETING

August 28, 1995 at TOWN HALL

Members Present:

Grant Benson	Paul Hopfgarten	William Zolla
Jack Dowd	Sandra Hopfgarten	
Roy Feinauer	James Lupien	
Mike Gill	Fred Tompkins	

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of August 14th meeting was made by Mike Gill and seconded by Paul Hopfgarten. Vote was unanimous. A motion to accept the minutes of August 21st meeting was made by Paul Hopfgarten with a few clarifications. On Page 16 should Mike's comment be dissolved instead of resolved? Mike - resolved (Refer Village District). On Page 14 with Mike's motion about having a town council form of government incorporating House Bill 141. It ~~would~~ be, Jack commented, on going back where we were before, (minutes corrected.) Sandra made reference to Mr. Gross's comment on Senate Bill 2, she felt it was misleading and felt there should be more information. All in favor of August 21st minutes except Mr. Dowd, who abstained.

Chairman's Report:

The Chairman wrote to Mr. Gross asking the question about the East Derry Fire District automatically being absorbed into the city if the voters chose the city form of government. Mr. Gross's answer is no and the only way East Derry can come into the city is to vote to dissolve that district. I also asked Mr. Gross about the school district meeting in regards to the Laconia charter. His recommendation was to adopt provisions that would transfer all the current functions of the Derry School Meeting to the Derry City Council and would abolish the school meeting. This would mean the Derry City Council would perform only those functions the law confers on school meetings, otherwise there would be no change. The district would remain a separate legal entity and the school board and school administration would exercise the same authority and perform the same functions as it currently does. The gross budget authority would rest with the Derry City Council while educational authority would remain in the school board and operational authority would remain in the district administration.

Bill read excerpts from attorney's letter of August 25th giving opinion that the East Derry Fire District can not automatically be absorbed into the City of Derry. They will

DERBY CHARTER COMMISSION
MEETING

August 28, 1995 at Town Hall

Members Present:

Grant Benson
Jack Dowd
Roy Farnham
Mike Gill
Paul Hoggarth
Sarah Hoggarth
James Ingle
Fred Jamieson
William Jolly

William Jolly called the meeting to order at 7:00 p.m.

A motion to accept the minutes of August 14th meeting was made by Mike Gill and seconded by Paul Hoggarth. Vote was unanimous. A motion to accept the minutes of August 21st meeting was made by Paul Hoggarth with a few clarifications. On page 15 should Mike's comment be dissolved instead of resolved? Mike - resolved (later Village District). On page 16 with Mike's motion about having a town council form of government incorporating House Bill 15. It should be back commented on going back where we were before. (minutes corrected) Sarah made reference to Mr. Gross's comment on Senate Bill 2, she felt it was misleading and felt there should be more information. All in favor of August 21st minutes except Mr. Dowd, who abstained.

Chairman's Report

The Chairman went to Mr. Gross asking the question about the East Derby Five District automatically being absorbed into the city if the voters chose the city form of government. Mr. Gross's answer is no and the only way East Derby can come into the city is to vote to dissolve that district. I also asked Mr. Gross about the school district meeting in regards to the Lagoon Charter. His recommendation was to accept provisions that would transfer all the current functions of the Derby School Meeting to the Derby City Council and would abolish the school meeting. This would mean the Derby City Council would perform only those functions the law confers on school meetings. Otherwise there would be no change. The district would remain a separate legal entity and the school board and school administration would exercise the same authority and perform the same functions as it currently does. The gross budget authority would rest with the Derby City Council while operational authority would remain in the school board and administration.

Bill read excerpts from attorney's letter of August 25th giving opinion that the East Derby Five District can not automatically be absorbed into the City of Derby. They will

have to dissolve themselves with a 2/3 vote of the voters in the district.

Received an invoice from Mr. Gross for the month of July in the sum of \$2552.45. Mr. Tompkins made a motion to authorize payment of Mr. Gross's services through the end of July. Jack Dowd seconded. Vote was unanimous.

Bill advised that media contact will come through the Chair to give out official information from the commission meetings.

Mr. Feinauer made a motion to use the Derry Charter as a guide.

Bill: Mr. Gross feels the Derry Charter is essentially "State of the ART." and recommends we follow it as a guide.

Fred Tompkins questioned synopsis of motions and amendments made last week. Mr. Zolla's understanding of the motions is that we adopt a city charter with a manager/council form of government and within that charter the council assumes the responsibility for all budgets in the city including the school district. A discussion followed concerning the original motion and the amendment that were made. Fred stated that the three amendments that were passed do not appear to have modified the original motion to any degree. It was decided by all that the original motion that was previously tabled now stands as it was originally made.

Paul has a concern with the Fire District. He would like a clarification on the fiscal expenditure of the fire district. Can we put in the charter something that would prevent the council in making the East Derry Fire District pay for the Derry District also? Paul moved as part of the motion for the charter that we include a provision in the charter that would preclude the city council from taxing the members of the East Derry Fire District for the services of Derry Fire Department as long as the East Derry Fire District continues to be an independent district. Mike seconded. Paul feels that this is a safe guard for the East Derry Fire District and allows them to make their own decision as to when they chose to dissolve. Mike asked Paul if this should be added into the question that would be put on the ballot in March? Paul's main concern is that it be put in the charter. Fred stated that the maker of the motion is essentially making an amendment to the motion that currently stands on the table, unless he wants it to stand as a separate entity. Paul moves this as an amendment to the original motion that this be inserted into the charter at the time we are working on putting that charter together. Bill feels that the motion is not necessary. Vote taken. 9 yes. Motion passes.

have to dissolve themselves with a 2/3 vote of the voters in the district.

Received an invoice from Mr. Gross for the month of July in the sum of \$252.45. Mr. Tompkins made a motion for authority payment for Mr. Gross's services through the end of July. A vote was recorded. A vote was unanimous.

Bill advised that media contact will come through the Chair to give out official information from the commission meeting.

Mr. Tompkins made a motion to use the Berry Charter as a guide.

Bill: Mr. Gross feels the Berry Charter is essentially "Ours of the CRT," and recommends we follow it as a guide.

Mr. Tompkins questioned synthesis of motions and amendments made last week. Mr. Lolla's understanding of the motions that we adopt a city charter with a manager/council form of government and within that charter the council assumes the responsibility for all budgets in the city including the school district. A discussion followed concerning the original motion and the amendment that were made. Fred stated that the three amendments that were passed do not appear to have modified the original motion to any degree. It was decided by all that the original motion that was previously tabled now stands as it was originally made.

Paul has a concern with the Fire District. He would like a clarification on the fiscal expenditure of the fire district. Can we not in the charter something that would prevent the council in making the East Berry Fire District pay for the Berry District also? Paul moved as part of the motion for the charter that we include a provision in the charter that would prevent the city council from taxing the members of the East Berry Fire District for the services of Berry Fire Department as long as the East Berry Fire District continues to be an independent district. Mike seconded. Paul feels that there is a state guard for the East Berry Fire District and allows them to make their own decision as to when they choose to dissolve. Mike asked Paul if this should be added into the question that would be put on the ballot in March? Paul's main concern is that if he put in the charter, Fred stated that the maker of the motion is essentially making an amendment to the motion that currently stands on the table, unless he wants it to stand as a separate entity. Paul moves this as an amendment to the original motion that this be inserted into the charter. At the time we are working on putting that charter together, Bill feels that the motion is not necessary. Vote taken. 9-yes, motion passed.

Fred made a motion that we take the Chair's recommendation that we use the Derry Charter as our base line. Roy seconded. Vote was unanimous. 9 yes.

Jack made the motion that the word town be changed to city throughout the charter. Sandra seconded.

Discussion was held on how to go through the charter to make changes. It was decided to go through the charter, item by item. Fred stated that in the current charter section 4.3 Judicial Boards there should be a change "In addition, there shall be 5, instead of 3, alternate members etc." That was VOTED in March 8th of 1994. Paul stated that it should be 2 alternate member's term shall expire in a single year. The second change is in Section 8.2 "The Administrator need not be a resident of the City or of the State of New Hampshire at the time of the appointment, but must establish residence in the City within a period fixed by the City Council." After the word appointment the remainder of the sentence should be removed. That was VOTED on March 14, 1995.

Vote on motion to change the word Town to City. Vote was unanimous. 9 yes. It was also asked to have the charter doubled spaced and to delete the charter commissions remarks. Fred will also ask Sandy to get the legal file on all the questions that have been relative to the charter that has been forwarded to council since this charter has been adopted.

Mr. Chairman read Section 1.1 Incorporation. Jack made a motion to adopt Section 1.1 Incorporation as the chair read it. Roy seconded. Jack made the motion in fact that it reads almost verbatim to incorporation as outlined in 49C:2. Vote unanimous. 9 yes.

Mr. Chairman read Sections 1.2 through Sections 1.4. Mr. Feinauer moved that we accept Section 1.2 through 1.4 as read. Seconded by Mr. Dowd. Regarding Section 1.4, Fred stated the town has contractual arrangements with other then governmental entities. We have arrangements with health care providers, Rockingham cap. etc. Bill asked didn't we cover that under 1.1, all existing debts and obligations shall remain obligatory upon the City under this Charter? Fred said he didn't know if we did or not but the point he is making is that the town has exercised its ability to take on obligations for other people. Bill stated that it is what is said in Section 1.1. Roy stated that there is no reference to mention of private enterprise or something like that. Could you suggest anything to be put in? Bill believes that these paragraphs were the exact same thing as when we went from with a Board of Selectman.

Fred made a motion that we take the Chair's recommendation that we use the term "Charter" as our basic line. Roy seconded. Vote was unanimous. 9 yes.

Jack made the motion that the word "town" be changed to city through the charter. Sandra seconded.

Discussion was held on how to go through the charter to make changes. It was decided to go through the charter, item by item. Fred stated that in the current charter, section 4.1, judicial boards there should be a change "in addition, there shall be 5, instead of 3, alternate members etc." That was changed in March 1974. Paul stated that it should be 3 alternate members a term shall expire in a single year. The second change is in Section 6.2 "The Administrator need not be a resident of the City or of the State of New Hampshire at the time of his appointment, but must establish residence in the City within a period fixed by the City Council." After the word appointment the remainder of the sentence should be removed. That was removed on March 14, 1975.

Vote on motion to change the word "Town" to City. Vote was unanimous. 9 yes. It was also asked to have the charter deleted and to debate the charter commission. Fred will also ask Sandy to get the legal file on all the questions that have been relative to the charter that has been forwarded to council since this charter has been adopted.

Mr. Chairman read Section 1.1 Incorporation. Jack made a motion to adopt Section 1.1 Incorporation as the chair read it. Roy seconded. Jack made the motion in fact that it reads almost verbatim to incorporation as outlined in 49C:2. Vote unanimous. 9 yes.

Mr. Chairman read Sections 1.2 through Sections 1.4. Mr. Farnham moved that we accept Section 1.2 through 1.4 as read. Seconded by Mr. Bowd. Regarding Section 1.4, Fred stated the town has contractual arrangements with other than governmental entities. We have arrangements with health care providers, Rockingham etc. etc. Bill asked didn't we cover that under 1.1 all existing debts and obligations shall remain obligatory upon the City under the Charter? Fred said he didn't know if we did or not but the point he is making is that the town has exercised its ability to take on obligations for other people. Bill stated that it is what is said in Section 1.1. Roy stated that there is no reference to mention of private enterprise or something like that. Would you suggest anything to be put in? Bill believes that those paragraphs were the exact same thing as when we went from with a Board of Selectmen.

Jack made a suggestion that we make a note of this and when we submit this to our attorney that he investigate it. Lupien notes 7.1 - General Powers might cover this. Fred stated possibly there are two places where it might be covered, 7.1 and 9.10.

Voting on Sections 1.2 through 1.4 as read. Vote unanimous, 9 yes.

Section 1.5 Districts: Roy stated the 4 Districts should now be called wards. Fred stated that if you call these district wards then you have the obligation under the RSA to establish ward moderators, ward selectmen, ward supervisors, and ward clerk for each of the wards. You are also required to hold an election within the ward. Bill believes Fred to say that we could have 4 districts within a ward. Those 4 districts would have a city councilor and then the ward would have three general people elected from the ward.

Fred made a motion to have a single elective ward or town consisting of 4 districts. Mike stated 49C:3 Wards; The City shall continue to be divided into the same number of wards as constituted at the time of the adoption of charter hereunder etc. Now I understand Fred to say that all of Derry would be considered ward number 1. Is it legal to sub divide that ward into districts? Fred feels that this is how the officials could be elected. Jack reiterated what had been said ^{was} that one ward can be divided into four sections and has discussed ^{this} with Ambrose and Andrews. That means you only have to have the one group of ballot officials for an election. Bill clarified Fred's motion that to change Section 1.5 to read "The City shall continue to be divided into 4 districts comprising a single ward for the purpose of electing city councilors from such district,". Roy seconded. Paul stated a few people have asked to going to six districts. Paul made an amendment to the motion to make the number from 4 to 6. Mr. Lupien seconded. Paul stated that people wanted to go to smaller districts. Fred stated if you carved it up into to many districts it is very difficult to balance the population. The other problem is that we have one area in town it is extremely difficult to divide up and that's the Fairways. Discussion as to difficulties of creating new districts, conducting elections and the added problems of ward officers. Jack stated the last time it took at least six months to change district boundaries allowing even distribution of population. Paul felt that bringing up the number of districts was an obligation that he had to bring to the table.

Bill stated the issue on the table is whether to increase from 4 to 6 districts. Vote was 3 to 6, Jim, Sandra, and Paul voted yes. Motion was defeated.

Jack made a suggestion that we make a note of this and when we report this to our attorney that he investigate it. Lupton notes 7.1 - General Powers might cover this. Fred stated possibly there are two places where it might be covered, 7.1 and 7.10.

Voting on Sections 1.2 through 1.4 as read. Vote unanimous, 9 yes.

Section 1.2 District: Fred stated that 4 Districts should now be called wards. Fred stated that if you call these Districts wards then you have the obligation under the PCA to establish ward boundaries, ward sections, ward supervisors, and ward clerk for each of the wards. You are also required to hold an election within the ward. Bill believes Fred to say that we could have 4 districts within a ward. Those 4 districts would have a city councilor and then the ward would have three general people elected from the ward.

Fred made a motion to have a single election ward or town consisting of 4 districts. Mike stated 40000 Ward, The City shall continue to be divided into the same number of wards as constituted at the time of the adoption of charter. Now I understand, Fred to say that all of Barry would be considered ward number 1. Is it legal to sub divide that ward into districts? Fred feels that this is how the officials could be elected. Jack reiterated what had been said that one ward can be divided into four sections and has discussed with Andrews and Andrews. That means you only have to have the one group of ballot officials for an election. Bill clarified Fred's motion that to change Section 1.2 to read "The City shall continue to be divided into 4 districts comprising a single ward for the purpose of electing city councilors from each district." Roy seconded. Paul stated a few people have asked to going to six districts. Paul made an amendment to the motion to take the number from 4 to 6. Mr. Lupton seconded. Paul stated that people wanted to go to smaller districts. Fred stated if you carved it up into to many districts it is very difficult to balance the population. The other problem is that we have one area in town it is extremely difficult to divide up and that's the Fairways. Discussion as to difficulties of creating new districts, conducting elections and there added problems of ward officers. Jack stated the last time it took at least six months to change district boundaries allowing even distribution of population. Paul felt that bringing up the number of districts was an obligation that he had to bring to the table.

Bill stated the issue on the table is whether to increase from 4 to 6 districts. Vote was 5 to 0, Jim, Sandra, and Paul voted yes. Motion was defeated.

Bill: ^{Vote} on Section 1.5 as read. Jim Lupien read 49C:3 in regards to the number of wards, is that telling us that we have to stay ~~with~~ the same number ~~of~~ districts? Or is it saying we have to become four wards? Bill stated we are becoming one ward at the inception of the charter. Jim asked is this in conflict with 49C:3? Roy stated that it is referring a place that is already a city. Jack stated that you can't change it once you have become a city. Fred stated in the terms of a ward you can substitute the word ward and town to be pseudonymous in this case. A ward is like a town in the purposes of a state wide election. Vote was unanimous. 9 yes.

Bill went on to Article 2. Paul asked-need we insert a section saying the city shall consist of one ward. Does that need to be put in as a section? Opinion was it was not necessary.

Roy recommended to study and go over Article 2 because there are some things that just pertain to a Town and should be changed.

Bill stated that for the next meeting to go over Article 2. Fred suggest that in 2.1 to consider Town Clerk as a Ward Clerk as oppose to City Clerk. Jack would like to second with what Fred has said about Article 2. Bill asked we have to differentiate between State election and City election? He thought they were held at the same time. Fred stated that they were not.

Bill asked if he should read Article 3. The only changes would be to change the word Town to City. Mike asked where Article 3 is found to be allowed in 49C. Roy read 49C:33.

Bill would like to look at Articles 2, 3 and 4 at the next meeting and the following week look at 5.

Bill would like to adjourn the meeting to September 11th.

Motion to adjourn to September 11th was made and seconded.

Meeting was adjourned at 8:54 p.m.

R.F./C.G.

cc min #10

Bill on Section 1.2 as read. Jim Lister read 49C:2 in regards to the number of wards. As that telling us that we have to stay with the same number of districts. Or is it saying we have to become four wards? Bill stated we are becoming the ward of the jurisdiction of the charter. Jim asked this in conflict with 49C:2? Roy stated that it is referring a place that is already a city. Jack stated that you can't change it once you have become a city. Fred stated in the terms of a ward you can substitute the word ward and town to be synonymous in this case. A ward is like a town in the purpose of a state wide election. Vote was unanimous. 9 yes.

Bill went on to Article 2. Paul asked-should we insert a section saying the city shall consist of one ward. Does that need to be put in as a section? Opinion was it was not necessary.

Roy recommended to study and go over Article 2 because there are some things that just pertain to a town and should be changed.

Bill stated that for the next meeting to go over Article 2. Fred suggested that in 2.2 to consider town clerk as a ward clerk as opposed to city clerk. Jack would like to second with what Fred has said about Article 2. Bill asked we have to differentiate between State election and City election? He thought they were held at the same time. Fred stated that they were not.

Bill asked if he should read Article 2. The only changes would be to change the word town to city. Mike asked where Article 2 is found to be allowed in 49C. Roy read 49C:22.

Bill would like to look at Articles 2, 3 and 4 at the next meeting and the following week look at 5.

Bill would like to adjourn the meeting to September 11th.

Motion to adjourn to September 11th was made and seconded.

Meeting was adjourned at 8:54 p.m.

R.F.V.C.

cc min 610

DERRY CHARTER COMMISSION
MEETING

August 21, 1995 at TOWN HALL

Members Present:

Grant Benson	Paul Hofgarten	William Zolla
Jack Dowd	Sandra Hofgarten	
Roy Feinauer	James Lupien	
Mike Gill	Fred Tompkins	

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of August 7th meeting was made by Mike Gill and seconded by Paul Hopfgarten. Vote was unanimous. Minutes of August 14th meeting will be voted upon at the next meeting.

Chairman's Report:

Bill received a reply from Mr. Gross in regards to his question - "In your opinion, is it possible to have a town council form of government which has final budget authority over school district finances and incorporates the ballot bill and incorporates the balloting aspects of House Bill 141?" His reply was yes, you can have a town council; yes, you can have final budget authority over the school's budget but you can not incorporate 141 for approval on the school budget because Senate Bill 2, in essence, handles the school system.

Jim Lupien stated he thought 141 has to deal with whether you are doing it through a charter revision and Senate Bill 2 whether you do it at a school district or a town meeting as a referendum.

Paul called Merrimack and Exeter and they both have received warrant articles for use of Senate Bill 2 for both their town meeting and school district meeting. Some of the school districts are going with House Bill 141. Oyster River which incumbers Durham and a couple of neighboring communities. Their school board has decided to hold a special meeting by October 26, 90 days after they made the decision, to elect a charter commission for the purpose of creating a charter in the school district that will have House Bill 141. Paul feels that the difference between House Bill 141 and Senate Bill 2 is the method of incorporation not necessarily who is responsible whether it is the school or the municipality.

Mike asked, did he understand Bill say, that Mr. Gross has the opinion that he could legally defend this charter commission should they choose a town council form of government.

Bill believes it is Mr. Gross's opinion, as he understands it, that you cannot use 141 if you have taken final authority of the school budget.

Fred read from Mr. Gross's letter where he is talking about having a final fiscal authority in the town council over the school district. There is no New Hampshire Court decision which upholds this option, in the only legal authority is the Laconia case which appears to uphold fiscal authority in a Home Rule city council. If the commission moves beyond the Laconia pattern you will be moving into a more uncertain territory. Second point is relative to a ballot town council form. In an official ballot, town council form, we can not change the same reasoning which would theoretically support the possibility of investing united fiscal authority of the town council under the town council form. Fred feels that if you decide on a town council form with House Bill 141 then you have no hope of getting the school district final authority; and if you try to do a town form of government, and get the school district under it, and you theoretically have the Laconia case to back it up. Fred feels that you have to do 141 or do you want to put the school district under the council? You can not do both.

Bill stated that it is not putting the school district under the council it is final budget authority for the town council. The school district stays the same.

Mike states he didn't say it couldn't be done. Mike feels that the responsibility as a charter commission is to present to the voters a decision in March on a charter and also have to go through three state authorities, Secretary of State, Department of Revenue and the Attorney General's office.

Bill stated that it was very difficult *to do*.

Mike believes that the charter commission has to make a decision as to a city form of government or a town form of government and it has to be presented to the voters to vote on it. You also have to send the proposed charter to three regulating offices in the state for their decision.

Roy didn't know what Mike was referring to. Two things were being discussed 141 and the other is the Laconia case. Under Senate Bill 2 when you adopt it, you adopt RSA 40:12 it takes a vote of 3/5 or 60%. There is no time period now of three years as the bill originally called for before it can be voted out.

Mike interprets ^{it} as a mechanism to incorporate a ballot bill. He reads 141 to be the expedient method of incorporating something for the voters to vote on.

Roy stated that in Senate Bill 2 you don't automatically take that over through a town council, it has to go to a charter referendum.

Fred stated that if you put together a charter that does not pass, you don't have any right of appeal from that. The 49B statute is quite clear and says you can only put it on the ballot if all three of those in Concord say you can. So if any one of them say you can't there is no deal. You have to make up your mind what you are going to do here, a lot to do.

Bill feels that the commission has to decide between one of two things, make a single budget authority for both the school and the town. Do we want to go with 141 and a town council or do you want to just have a town council and bring the final authority for the school budget under that. That would prioritize your spending and possibly stabilize the tax rate. If you want to do that, and take this a step at a time, you should do one of those two things. If you go with a single budgetary authority, then the way to do that is with the city. Our attorney reasons and theoretically says it could be done as a town, but only the Laconia case, a city, has legal authority.

Paul asked if Bill had talked with anyone on the school board about whether they would challenge this.

Bill has had no official position of the school board. Members of the school board want to listen and think. It is really up to the commission to make a decision on what way to go.

Paul feels that there may be a legal case. They may still challenge this even if we became a city. He feels that if we become a city without budgetary authority, this would be the worse possible world to be in.

Fred stated as a commission we have no standing as an entity, we can not bring a suit. The only people who can bring a suit in this matter are the citizens in general, or the school board or the council. If we put together a charter which somebody doesn't like, be it the town council, the school board, group of citizens, or the three deities in Concord, us nine have no part in the thing, our influences at that time are over and done with because we no longer exist as an entity, so if there is any idea that this charter commission is going to direct any legal action, forget it. We don't have the power to do that. Point 2, getting back to the original point of deciding what you want to have happen, I think that what I hear is that we want a single entity, you want budgetary items and any items of consequence to be voted on by official ballot. I don't know

if 49B allows it, I am fairly certain that if you try to do a town council and 141 together and have budgetary authority over the school district, our own counsel doesn't seem to think it stands much of a chance. He feels that the State Board of Education would have something to say on it as well.

Bill stated that no one has proposed changing the school district, no one has proposed taking over curriculum or anything like that. The only thing we are talking about is taking the final budget approval from the school board and the meeting and putting it under the town council. Everything else stays the same.

Fred: Thinks that, if you want to make a change, make one that you can defend.

Mike: Feels that a town government with a town council equals or mirrors a city council as what Mr. Gross stated in his letter.

Bill quoted even more caution is called for with an official ballot if only because it is brand new and so poorly understood. In addition the same chain of reasoning applies to the pure town council option does not necessarily apply. They think that under the present law you can give town council the same power that city councils have; however, under the official ballot; town councils do not have the same power city council have but rather have only limited authority to vote on all matters not voted on by the official ballot.

Jim thinks that what he is saying is that town councils have all the powers of a city council but under city form of government they can't have House Bill 141.

Mike asked if the school board will sue us.

Bill stated that if we can't get by the Secretary of State or the Attorney General our work would be for nothing. We have hired Mr. Gross to make sure with whatever charter we come up with complies with the state law. Once that happens then it goes forward. If he's in error, they will pick it up.

Jack stated that on the other charter commission they worked very closely with the attorney and we were always cognizant of putting together a charter that the final draft would pass, not only with our attorney, but it would also pass the three entities that's being discussed here. He hears now that we don't care what the attorney is saying, let's just go and see what they say at the end of this process. The problem is that once you do that and they say no you can't do it, we have thrown nine months out the window. You won't

get anything on the ballot and you have to start this whole process over again. The people voted to have a charter commission. We have to be conscious on not how we are going to fight a law suit, but how to prevent a law suit. The present charter, I believe, is the only charter that the Town of Derry has had that in the last 50 to 100 years that hasn't been challenged in court. The charter has not been challenged in anyway and the only thing that I point to is that the last charter commission worked very closely with the attorney and listened to what he said before we went to the Secretary of State, DRA and the Attorney General's Office. What I see in Mr. Gross's letter is that he is saying if you want to go to a city, you have a case here; but if you want to do these other things you are looking for possible law suits down the road even if you can get them passed by the three entities involved. Why are we talking about a town with a ballot bill or a city without the ballot bill? Why are we talking about mixing stuff? Because mixing won't work. He says that you can not put the school budget on under the form of council we have now, you have to change the town council form of government.

Mike stated that RSA 49:13 specifically states that you can have a ballot bill with a town council.

Bill thinks that what he is saying^{is} that somebody will challenge it.

Jack says ~~that~~ he hears we want a town council form of government, only we want to do exactly like the city form, and we want to have the school budget under the town, and we will also have a ballot bill.

Mike's issue is that the people elect municipal offices and with 141 the people will have the right to see whether the municipal offices have done their jobs. With a City form of government the people do not have a control over the spending.

Jack asks if you go to a preliminary meeting on Saturday, when do you vote? You go to vote the following Tuesday.

Mike said that is not 141. They don't talk about preliminary meetings, they simply say that the ballot is voted on in the March election. Senate Bill 2 talks about the first month of giving the informational meeting and then you can amend the ballot on the budget and vote on it in April. I'm specifically talking about House Bill 141 you are mixing and matching sneakers and shoes.

Fred believes that 141 doesn't specify what the issues are that are going to be voted on by an official ballot. He would presume that if 141 is going to be incorporated in some kind of charter than the charter is going to have to

specify what those issues are. He thinks that what Mike is asking for is to have all the financial matters voted on by official ballot. Fred doesn't think that is good. He doesn't think a town meeting form of government is good for a town our size, he doesn't think voting on this by official ballot is a very good idea either. Because he knows how long it takes him to read and understand all the issues relative to the finances and he knows how long it takes other members of the council to understand a lot of the stuff too. He thinks that is it irresponsible for the legislature to set up a government that would work on that basis. Some town will adopt this form of government and it will lead to chaos and disaster and the difficulty will be trying to resurrect the town. He feels that the people will vote their first person form of interest. This is an invitation to mob rule.

Paul states that there is the assumption that the voters would be uninformed if they go to the ballot box to vote on 141. He would argue that they are equally uninformed as when they are when they vote for the citizen that represent them. He'd also say that the assumption that people who are elected to office don't vote in their own self interest and always do the right thing, and thinks that doesn't always take place. You have to let people make their own decisions. Government and money belongs to the people. He feels that there should be a vote real soon. Paul feels that House Bill 141 is extremely important. It is more important to him than combining the council and the school district at this point. If the decision of the attorney is that we can't do both than he would rather go for 141.

Roy points out that on House Bill 141 you are not limited to just budgetary items. You could be putting roads ^{on} the warrant. In his opinion not everyone is concerned about municipal affairs to the extent that they study, debate and wonder where the money goes and why. People are too involved in their own sphere of living. They are raising their children, spending their own money and they haven't got the time or inclination to study and evaluate a budget. Your town council does this, your school department does this, they weigh and go through the whole procedure and spend hours coming up with a budget.

People really vote for someone to represent them. As a representative type of government, you vote for people and put them in and then, if you don't like what they do, you vote them out. They are the ones that you have intrusted to say how we are going to spend the money, how they are going to run your town and take care of all the matters of town and school business. If you do not want that type of government then there is no other way you can do it, especially with the city the size of Derry, and have everybody understand what is goes on. People want us, or the council to come up, and say what we

believe is right and then, if they don't like it, they vote that councilor out. To think of voting for either one of these is a mistake and we will regret it. A budgetary town meeting is gone, you don't have an effective town council, your council isn't of any value and one person is going to come in and say your budget is \$32 million and the other is \$27 million so vote for the \$27 million. They don't have to live and be responsible for what they do. They go in a ballot box and vote the way they feel and then they walk out and the ramifications of that vote, well they don't care, that is, the majority of the people.

Mike is very distressed with what he is hearing. Every citizen in this town has a right to vote in private on the budget that he chooses.

Bill states that he believes that you all would like a single fiscal authority, to vote so we can prioritize spending. We have an issue on whether we put the final budget to the vote of individual; an issue to what form of government that we want. We have to start making some choices. We have got to get started on the charter.

Fred feels there are two major competing ideas, single fiscal authority or official ballot poll of the town's budget. These are the two basic competing ideas except Mr. Gill believes that we can stuff them all together into one package. He believes you have to have an idea and our support. If it does have our support with the majority the commission than we should pursue it. The first question is to ask, I'll call it the Gill idea, if you don't mind, which includes town form of government with fiscal control of the school budget with official ballot voting. Understanding that the fiscal ballot voting here would be on fiscal matters.

Fred: Motion to have a town council form of government with fiscal authority over the school budget and to also incorporate House Bill 141 so that specific matters may be voted by the public. Mike seconded with discussion.

Bill stated that there was a motion on the floor which in essence that we go with a town council form of government, we bring the fiscal authority, the final approval of the school budget to the town council and that form of government incorporate House Bill 141 giving the voters final authority on specific items that would be specified in the charter. I think Marty says that you have to specify what's going to be voted on by the council and what's going to be voted on under 141. Do you accept that Mr. Tompkins? It sounds good to him.

Grant stated that you are going into uncharted waters under all of this. Supposing that this won't pass, that this

can't be done, than this is an ineffective method. We are saying here let's take the easiest way out and become a city. That is what we are saying and four of you on the board is advocating because you don't want to ruffle any waters. I think somewhere you are going to find that either Exeter or Merrimack maybe a lot of other towns think along the lines like Mike says that this will come to the Supreme Court. Your legislature didn't do such a good job and they put their oar in maybe just to create problems.

Mike doesn't know where this is going, but to many people that he has talked to they don't want to give up the town as a name "town". They want to call this place a "town". The Derry residents want Derry to be a town, the Derry residents want to go vote over a course of hours without sitting on the bleachers regardless of whether it be work habits or old age or whatever you want to call it. The residents want to go and vote their conscience. The Derry residents are the people who pay the bureaucrats their tax dollars. It is a good annual report card rather than a three year report card on what someone does.

Jack feels that eleven years ago you were absolutely correct back when Derry was probably 10,000 maybe 15,000 less than they are now. We sent out during the last charter commission a survey and many at that time said they wanted to be a city. This time he is hearing far more people talking about city than town. The reasons being and why we are here and why people voted for another charter commission, is because Derry has gotten too big. We have got to start calling ourselves what we actually are. He made the statement before that Manchester became a city when they hit 32,000-33,000. Boston was 32,000. We are too big for a town, we are a city. We might as well call ourselves a city. The other issue, are we taking the easy way out? I don't think we are. He doesn't believe that's the issue here whether we can get out as easily as possible. The easiest way is to stay exactly the way that we are. The people have told us that they don't want us to stay that way and I think if that vote to be a was taken again this year it wouldn't be the same vote. How are we going to take this community and move forward. Move forward in unity. We have so many groups working this community voluntarily, working to make this community as positive as they can. We don't need to take this back into the courts. I was guilty of that and felt very strongly about doing it because of the way the charter was written back then. He thinks that we need to start stabilizing ourselves. We have to get people talking to one another again. Most importantly stabilize the tax rate. You can't stabilize the tax rate by bouncing budgets all over the place in the ballot booth. When you can put more than one budget on a ballot bill it confuses people that don't have the time to spend coming to meetings and don't have the time to put the TV on because they don't

come home in time to watch a meeting that's happening. This is a bedroom town and people are getting home between 7:30 and 8:30 and just sitting down to supper. We can't take this community back through the courts. We have an opportunity under the next five to ten years to lift this community out of where we are and the frustrations and the bickering and the fighting that's going on. It is not just the matter of the easy way out, it is how can we make this community better.

Fred stated that we have a completely different lifestyle now than many years ago and why people aren't coming out to the polls and to district meetings is because they have other things more important for them to do and they are willing to let the government run with somebody else who is willing to run it. Now unless you recognize that you will have a minority take control. Nobody is going to pick them they are going to pick themselves. That's okay if you want things run that way, but there is no responsibility with that kind of action. ^{as} Those voters are responsible for no one except themselves to what they do. They are not responsible for the rest of us or even responsible to the law. That worries him and that is a definition on anarchy. Unless there is responsibilities and authority given out in like measure, where somebody has to stand responsible for their action, then he is afraid that is not the form of government that he wants to support.

Sandra wants to clarify a couple of things on 141. With the ballot bill, as it would be enacted, with 141, we would be voting on the town council's budget. It is not a budget that we would devise at a town meeting. It is not a budget that we would be able to change at a town meeting at least in the initial run through. We would have one budget on the ballot - logic would be that we would have ample opportunity to learn about it through public hearings. I would imagine that all of the budget preparations would be public as they are now, unless I am wrong. We would be voting at the ballot booth on the town councils budget.

Paul stated that the people complained to him the most was about going to the school district meeting because they have to work. The ballot allows a thirteen hour window as it is currently constructed in Derry. To say this is going to lead to anarchy is a large stretch. What will happen if we incorporate 141 and people decide not to pass a budget increases for a couple of years? If the services are not at the level that they want, then they will learn the responsibility that this doesn't get us to what we want in the community and they will vote that way. Then the town council would be in a better position because then it would be the people voting directly and they then directly would know what it takes to keep the community operating. About 141, he believes that this group has the power to craft 141

almost in any manner we want. We could have it so either you vote up or down on the council budget and, if it doesn't pass, you can stay with the previous fiscal year or you could amend it somehow. 141 is very good for a charter commission because it allows us to craft what we want. The people have the right to make the wrong decision. Paul will stand by the concept of this house bill.

Roy stated that Sandra mentioned that you are going to vote on what is presented to them by the town council and that's not particularly true. Because what you do before you vote is to have a discussion. And you have the right to put in the process for public hearings, debate, discussion, amendments and questions that have to be placed on the ballot. All this can be done under 141. What you have done is thrown away half of our particular charter that we have now and say, for example, that any transfer of funds will be whatever we decide on tonight or whatever might be decided by this commission. What you have done is thrown out what's in our charter today and you have thrown out anything the council thinks is valid. So to the people that you elected to represent yourself, you are now saying you are sorry, but your opinions really don't mean anything to us and we are going our merry way and vote how we wish.

Bill feels very strongly that unless we stabilize the tax rate we are going to be in very serious problems. He doesn't want to take the easiest way out but he wants to take the surest way to combine the fiscal authority of all budgets under one approving authority. The only way to do that is with a city and by taking the final budget authority of the school budget onto the council so they can prioritize the spending. He believes in increased representation. If we are unhappy with those people, we can vote them out. We have too much conflict between our people in the community. If the people are going to be angry let them be angry with an administration and not with each other.

Mike stated that back in November of 1994 this country changed the form and course of government dramatically. We have an age disparity group here. Possibility it is time to go forward and be adventuresome. He would prefer to call it municipal offices because to call it a town council denotes something else. Municipal offices have charge of the total budget of this community and the people have the right and the responsibility to live up to their commitment.

Jim agrees with the chairman except for one point. He feels that bringing the school budget under one fiscal control is more important to him than people voting on House Bill 141 or being allowed to vote. His interpretation of the attorney's letter is that we can't do what the motion on the floor says. He can't support that. To him it is more important to bring fiscal control of the town and the

schools under one head, whether it be a town council or a city council form of government. That is more important to him right now than people voting on House Bill 141. I would prefer to stay a town, I'm not too keen on becoming a city, but again he thinks that people are not happy going to a school district meeting, it's a circus. He doesn't think to bring the town into that type of government is going to bring us forward. Bringing the finances of the school district under a town council or a city council is more important than the ballot aspects of 141.

Jack believes what Sandy said was correct as in regards to 141, but that's not what Mike and Paul have been talking about. He thinks that what Paul said kind of sums it up quite a bit. If the people don't get out to vote and the budgets get reversed and go down, well, after a couple of years the people will wake up. That has been our problem. Even when we have had the school district meeting the tax rate has flip flopped so much over the last few years and that's what is going to happen again. The people come to the ballot booths now run in and run out so fast so they just want to get to work or at night they want to get home and eating. They do not have the time to read the ballot. They are going to get frustrated. It is under the school district and it will be challenged and you will still have a school district meeting. It is the school district meetings that are going to amend these things that go on the ballot. If you try and put them all together as this motion says, it is going to be challenged and you are going to lose the whole school district issue.

Sandy is not convinced that we can do everything on Fred's motion. She would like to digest what was received this evening and maybe do a little more research. If we do vote for Fred's motion which would encompass the school budget under town fiscal authority and provide for ballot voting via 141 and if we find that it is not a legal possibility, where does the charter commission go from here? I think it is early enough so that we can reverse ourselves and stay a town and choose one option or another but I would like to know before I vote.

The Chair stated, that it was his opinion, that if we vote for this motion and we approve it the first thing I do is send it to Mr. Gross and say look this is the direction we are taking. He thinks Mr. Gross will come back and tell us, that he told you "I said here are the pitfalls and I don't recommend that you go this way. Whether he will render an opinion at the end of all this that this is a valid charter to go before the state, he doesn't know. What does the commission ^{WANT TO} continue on? If it is turned down what do we do then? Bill feels that we do not have the time to waste another week or two, that we must get a direction going tonight. If you want to go forward, we will see what

Mr. Gross has to say. If he says that he can not give us a legal opinion that says that is valid in the realm of state law, ~~that's~~ interesting, where do we go? We come back and we do something else and we keep going to him and then we *STILL* have to write a charter.

Paul in regards to what Jack said regarding the people and the voting a couple of years down the road. People tend to want things and not pay for them. We have to make a decision. He has faith that the people at large can do this at the ballot booth. Bill, is it true, that with any motion we make you would get legal check on it or is it just this one specific one.

Bill: Just this one, because we have some opinion here that we are on charted waters.

Paul: Laconia was under RSA 49 when the case was heard in 1971. In 1979 49A was removed from law and 1991 49C was enacted for local option city charter so there was a period of time they didn't have it and they put it back in. Actually Laconia's case was heard under an RSA that is not there any more even though there is an RSA that has the same title. It is not the same RSA. No one has become a city since the enactment of 49C, in fact Lebanon was the last to switch from a town to city and that was in 1959. There was even before the constitutional amendment in '66 was passed. The equivalence of new turf for a new city or house bill 141 is the same. These are things that have not come before the folks at the state before. There is some risk involved. The only sure bet, as Jack said, is staying exactly where we are now. Any change will put us at risk. Do we want to take the risk, is the risk too big? My preference is direct access to the people.

Bill feels that Mr. Gross did address Laconia becoming a city way back and he believes that it was his opinion that even though that was the case, that the circumstances were the same now

Jack: States that 49C is the Home Rule City Council that all powers conferred in RSA chapters 44 through 48.

Paul: Is that the exact same wording 49A part 40-whatever the old law was?

Roy: Marty said it was.

Jack: He bases it on chapters 44 -48 which were in existence then.

Fred: It seems that the old 49 which Laconia organized themselves is hearsay, the case of voting the school budget up or down was not an issue in the case. Since it was not

an issue, the court said nothing about it. They didn't research and make it a judgment as to whether it was legal or illegal in their charter. The point I am making is the Mr. Gross says the Laconia case provides a precedent. The real issue is do we want a town form with fiscal control of the school board utilizing house bill 141. That is all three things together.

Bill: We are going to vote on the question. The question is the amendment to go with a town form of government with final fiscal authority over the school budget and 141 to be incorporated into that form of government.

Motion dies, 1 yes, 8 no, Mike Gill voting yes.

Fred: The question is do we this to control the school board or not? He moves that with what ever charter we have must fiscal control of the school board. Seconded by Mr. Dowd.

Paul: Would like a clarification that Fred is not making a motion that declare city or town, this is just to combine regardless of form of government. Fred: Yes.

Mike: 141, I hope, I could amend it to say we have a town form of government incorporating House Bill 141.

Bill: Point of order, you can't amend an amendment. This is an amendment to the original motion that was made last week. If it is voted down or for and then you can come back in and make an amendment. The motion is, in charter that we come up with that final fiscal authority will shall be in the hands of the council.

To vote whatever charter we come up with the final fiscal authority of the school budget shall be in the hands of the council. Vote was 8 to 1, Paul against.

Fred: Moves that we have a city form of government as to opposed to a town form.

Bill: A motion has been made that we have a city form as opposed to a town form of government. Roy seconded.

Fred: It seems to him that the city form is the way the attorney suggests that it is the best way.

Bill: The motion on the floor is that we adopt a city form of government by our charter. Vote Mike, Jim, Sandra and Paul no, Roy, Bill, Jack and Fred yes and Mr. Benson abstained.

The motion fails, 4 TO 4 WITH 1 ABSTAINING.

Grant: What are other choices that we have? You don't want a council under 141, now you want a city. What other choices—you certainly don't want a town with a representative type of government with 200 people. Give me another choice.

Jack: Grant has the right to abstain. The Chair is the only one, if the rules were, to say break a tie.

Bill: If he continues to abstain, then the motion will die.

Grant: Maybe the motion should die, and without everyone wanting to make a motion lets find out what other types of government we can have. Everybody has to have a motion. Let's talk about what other types of government we can have because I am not thoroughly sure.

Bill: Motion dies.

Mike: *my* motion is that we have a town council form of government incorporating House Bill 141. That is an amendment to the one just passed. Paul seconded. *guy* However, *now*, we are back where we were before.

Mike: *move* We have a town form of government incorporating House Bill 141. Paul seconded.

Bill: The motion has been made and seconded to have a town form of government incorporating House Bill 141. Point of order—we have already passed *a* motion that the final fiscal authority for all budgets will rest with the town council. Discussion.

Jack: The motion has already been voted down. What we have on the floor is the exact same motion that we made originally.

Fred: It is a reconsideration of a vote already taken. The question by an individual who was not on the prevailing side. The amendment that is being offered essentially adds to the current amended motion that the fiscal control of the school budget *and* the town *be* form *ed* with House Bill 141 which puts us exactly back where we were. That is out of order because he does not have the right to suggest an amendment because he was not on the prevailing side and it was previously voted down. Unless somebody on the prevailing side wished to make a motion to reconsider.

Paul: Withdraws his second.

Bill: Motion on the floor—do we have a second? This man made a motion to amend. Paul withdrew his second. You don't have to rule on that unless I have a second on the motion. Motion dies.

Mike: Notes that we are not under Roberts rules. Move a motion to delete the school budget and to add 141.

Bill: There is a motion on the floor "to delete the final fiscal authority of the school budget being in the hands of the town council and to incorporate 141". This is different than the first motion that we voted on. Paul seconded.

Paul: Let's move the question and take this vote. If you vote for this amendment we are not combining the school budget with the municipality. We are just incorporating 141.

Bill: We have a motion the floor and it has been amended. The motion of the floor now is we have a town form of government with final fiscal authority over the school budget and the budgets to be incorporated.

Paul: Point of order, Mr. Chairman, we have not delineated whether it is a town or city. We just said fiscal authority without defining the kind of government.

Bill: We want to reconsider?

Fred: I thought there was an amendment on the floor to replace fiscal control of the school budget with House Bill 141. That was properly made and seconded. Are we going to vote on that one or have you declared it out of order?

Bill: Any further discussion.

Jack: I am not sure what we are voting on.

Bill: Explain your motion.

Mike: Replacing the municipal offices, with the authority of the school budget, with House Bill 141. Taking out the municipal authority responsibility of the final budget of the school and plugging in House Bill 141.

Jack: We are confusing issues here and we have to go to our attorney and he will have to go through this stuff.

Mike: The town council form of government incorporating House Bill 141 which is perfectly legal under RSA 49D 3.

Bill: Just make the motion.

Jack: Well, he made the last statement and ^{is} pulling out the authority of the school.

Mike: Replacing the budget authority of the school with the 141.

Bill: There is a motion to delete the authority of the town council over the school budget and to replace this with House Bill 141. Voting yes, Mike, Sandra, and Paul; the rest voted no. Motion was defeated by 3 - 6. We are back with the final fiscal authority over the final school budget.

Jack: I would like to ask Grant ---

Grant: I would like to get this thing moving, maybe down the line we can do it with councilors, one year terms, or something. Somewhere I don't like the liberalism that I see in Derry. Maybe we can do it with councilors, vote one year then we sweep the slate clean. I realize people won't go out and vote. I doesn't like to go to a school meeting and wave a card. That is the old way of doing business. If the school doesn't have the dollars, they say raise it, I doesn't like that type of business. I will vote for a city if we will decide to.

Jack: There is only two forms of government, a city or a town. Once we make a decision which way we are going then there are issues under that. as to the different types of things that we can do with what we voted for,

Fred: I move that we amend the amendment to say the government by a city form of government. Mike seconded.

Jim: Out of order, since he was not on the prevailing side, How can you bring that up for reconsideration.

Paul: There was no prevailing side. The vote was 4, 4, 1. Anyone can do it.

Roy: What was the motion that you made Fred.

Fred: That we would amend the amendment to be a city form of government.

Bill: Discussion.

Mike: If we become a city form of government, does the village district get resolved and the answer is yes.

Bill: What village district?

Mike: That's my question. Is the East Derry Fire District considered a village district.

Bill: The East Derry Fire District will not be dissolved, because the electorate in the East Derry Fire District is not the same electorate in the school district nor the town district.

Mike: Is it a village district?

Bill: It's a fire district.

Mike: Is it a village district? The answer to that question is yes. If we become a city, the East Derry Fire District is dissolved.

Roy: No.

Paul: RSA 53 or 52 *refers to village districts.*

Bill: We have a motion on the floor. Let's second it.

Mike: What was that RSA Paul?

Paul: Either 52 or 53.

Mike: The question is - is it considered a village district?

Jack: Believes at the time that Ambrose and Gross were talking about the school district at the time. Basically it is called a village district also and the only reason it is dissolved is because the entire body of that district votes to disband in the process of voting.

Bill: Mr. Gross also said that you can not do away with the district. We have no intention of doing away with the school district. The fire district can only do away with itself. That's not being voted on.

Paul: Are there village districts in any other cities in New Hampshire, that would give you your answer.

Fred: East Derry Fire District is a village district. The school district is not a village district.

Paul: That's right.

Roy: Move the question.

Bill: Question has been moved. The amendment on the floor is that we have a city form of government.

The vote taken is 6 yes, Paul, Sandy and Mike voted no. Passes 6 - 3. We now have on the floor before us a city with final fiscal authority with all budgets of the town except for the East Derry Fire District.

Mr. Lupien: I move that any charter that we approve amend the motion to include a budget committee.

Paul: Can we have that in a city?

Roy: No, I don't think so, just in a town. The municipal budget act refers only to towns.

Bill: Mr. Hopfgarten —

Paul: I would like to have an amendment that on the chance that we find that we do not have precedence in the Laconia case and it comes back to us at a time prior to the three officials checking the budget, that action withdraws this motion. My reasoning being that we don't become a city without that authority so that we are just a city. Jack seconded.

Jack: He is concerned ^{about} the time frame. Please clarify.

Paul: If at any time prior to the date in November that we get information that shows that this case is not as clear as one persons opinion of it is, then this would get withdrawn. That we would re-vote ~~to~~ being a town or a city.

Fred: In discussing the amendment on the floor, it seems to him there is a possibility that we could go along and apply for a charter with a city which takes jurisdiction of the school budget and let us say that it is challenged. You are going to have fix the transition procedures that either the charter be held in abeyance or the part that is challenged is withheld in abeyance while the rest of it goes into effect. Even if it passes all the hurdles and we get to the point where it is challenged and part of the charter is set aside then you might want to govern as to what position the town or the city takes relative to the initiative. it takes on any other part of the government.

Paul: I would consider that an reasonable alternative. I'd say the charter would revert back to the previous one if ~~this one~~ ^{is challenged}. Specify it to just the situation with the fiscal authority of the school.

Fred: You would have to make sure that the charter had not gone into effect. We could be operating as a city and then someone could challenge it and then what would we do?

Paul: Whatever means ^{are} necessary, if it is before the time, or if we find something out, or one of us comes up with something that our lawyer would say that's equally valid, I want us to reserve the right to go back and re-vote this. People here are voting for a city because they want to combine fiscal authority and if that catalyst is removed then the desire to be a city may not remain with those people. I am looking for a kind of control.

Fred: If the catalysts was overruled, I still would want to be a city because it provides options for doing things

within the administration of the municipality that we have now that could save us some money.

Roy: I go along with Fred that even if the school, and we were not able to bring it under the control of the council at the present time, I think that we have opened the door so that we could vote upon this particular thing even if it was at a later date. In the same particular year—why the school could decide they wanted to dissolve themselves in some way and we could vote on that. I prefer to being a city. We are not leaving ourselves open to a lot of various maneuvers that people in Concord seem to think that a town can go through. Concord seems to think that anybody can run a town, but I don't think they are so positive that everyone can run a city.

Jack: Just clarifying the motion. The motion is that if somewhere before November, whatever the date is, nothing beyond that date, while we are in this process we find from the attorney that we can not bring the bottom line of the school budget under the fiscal control of the city council than we would revert,

Paul: No, re-vote and people may decide that we have gone too far in the process and they don't want to re-vote, but I want to leave that option open.

Jack: I thought we would go back to a city, because one of things that I would highly suggest after we take this vote is we move our attorney and have him pursue all angles. So if that we don't get to November and we take a re-vote on this we have done 2 1/2 to 3 months worth of work in pulling a city charter together to say "lets throw this out" now ~~this~~ ^{this is} going to be a real waste of time. Basically we are running as a city now, the only thing we are doing is changing our name and a few of the details. We are operating under the same rules.

Paul: But as a town we have more options. I believe we have more options on how to govern ourselves.

Jack: The option is 141.

Paul: That is an option that is not there as a city. To me that is important. Are those who want to be a city willing to be a city even if this is found to be invalid. I would like to have that information.

Jack: I think the answer to your motion is that our attorney gets moving in one direction and gets that information back to us as we go along in the process as soon as possible so that we can say we are wrong. In three weeks we can change our direction but if we get to November we are not going to be able to change our direction.

Bill: It is my intention to write Mr. Gross that the commission has voted to go with the city form of government and we want to consolidate the fiscal authority for the school and town in the hands of the council or whatever. He has already recommended I believe to follow Laconia which I believe had a city manager and council. I think as we go along if we get into a disagreement over the form of government then there maybe some reason to reconsider. I think we should reconsider instead of saying if this doesn't happen we should go back to square one. If we take an action and if it is right, it is right; and if it is wrong, it is wrong. It is up to the people.

Mike: I voted in the negative with Paul and Sandy but I am of the opinion as follows. If this board has decided *with the* majority to go with a city form of government then I would support going to a city form of government. I would not like to second guess ourselves and maybe fall back. We will have the expert opinion of the attorney and of the three deities and I would like to go forward with a city form of government. It was a 6 to 3 vote.

Paul: If Mr. Dowd wants to withdraw his second, I will withdraw the motion, but I think it is a mistake.

The motion is withdrawn.

Jack: I would like to make a motion at this time that we do not putting numbers in at this time but the motion to have a council and city manager form of government. Roy seconded.

Bill: Mr. Feinauer seconded. Any discussion.

Jack: The reason I do it without numbers is because I think there is a lot of discussion and a lot of different things that can happen through the process of forming this city. I think, *and* I would hope, that we could possibly reserve the numbers to a later date, while we are in the process of working the entire thing out. How we set up the districts. How we are set up all of that. A lot of that has to be discussed before we put the numbers whether it is seven, nine, fifteen councilors in there, and also how they are going to be elected— in what time frames their terms would be. I think a lot of that has to be discussed in the time with the numbers. That is the only reason I leave those numbers out.

Bill: Is the city manager/council and the city manager form of government the same that Laconia has?

Jack: To my knowledge it is.

Roy: I just wanted to point out ~~3570~~ what Jack just said, I think it ~~is~~ very good to leave out the terms and stuff out of it. I know we discussed the other night that possibly we could give everybody a two year term and then if we don't like what they do, we could get new people in there, and if we do like what they do, we can keep them for another term.

Bill: Any further discussion. Mr. Gill.

Mike: We pretty much talked about all forms of government and we have pretty much decided we will go with a city form of government. I think to table that motion now to give myself a week to review 49C 3 and look at some city form of charters so that maybe we could bring that up fresh next week. We pretty well decided that we are a city and I don't want to just start with that at this point. I would like to review 49C. I make a move to table. Seconded.

Bill: All in favor of tabling. Yes, Mike, Jim, Sandra and no Grant, Jack, Fred, Paul, Roy and Bill. *Vote 3 - 6. Motion passes.*

Jack: The only reason I voted no in that particular motion was that I think we should, if we are going to send this to the lawyers, and I think we have to immediately send him some form of direction. There are only two forms of cities -- Alderman and (strong) Mayor, I don't believe there is a weak mayor in an alderman form of government and you have the council.

Mike: You can have the mayor which is elected by the alderman.

Jack: I think we have to send it to our attorney with a positive direction.

Bill: I think there is some merit in doing it tonight to give him something to look at. The city manager, Jack, if somebody can look back into Laconia, was that the form of government? If that was the form of government, I think probably that is the outline that we should use if we are going to consolidate fiscal authority.

Jim: It is stated on page two of Mr. Gross's letter in the last paragraph. What form of government was in place when the Laconia case was decided. It appears that it was a city with a council/manager form of government.

Mike: Can I make an amendment to that?

Bill: No, you can't amend an amendment. The question has been moved. I am going to poll the board. The amendment is we have a council and a city manager form of government. Mike abstained. Paul voted no and all others voted yes. The

vote 7 - 1 - 1 is to have a council-city manager type of government. *No Paul, adjourn Mike*

Mike: Can we make a motion to ask the question to Mr. Gross about the East Derry Fire District being the village district?

Bill: I will ask the question. Will the East Derry Fire District which does not have the same body politic as the town or as the school district will be automatically absorbed into a city form of government.

Fred: Please Bill, in your letter identify the East Derry Fire District as a village district.

Roy: I think Marty made reference to that in his note.

Bill: Motion to adjourn was made and seconded. All in favor.

Meeting was adjourned at 9:14 p.m.

R.F./C.G.

cc min #9

DERRY CHARTER COMMISSION
MEETING

August 14, 1995 at TOWN HALL

Members present:

Grant Benson
Jack Dowd
Roy Feinauer
Mike Gill

Paul Hopfgarten
Sandra Hopfgarten
Jim Lupien
William Zolla

Absent:

Fred Tompkins

William Zolla called the meeting to order at 7:00 p.m.

Minutes from the August 7th meeting will be voted upon at the next meeting.

Chairman's Report:

Chairman Zolla provided the Derry News with a copy of Marty Gross's letter and the Laconia backup. He also provided Dave Jack, Assistant Superintendent of School, with a copy of the opinion.

Committee Reports:

Data Committee:

Mike Gill reported on the information that was received by seventeen communities throughout Maine, Massachusetts, New Hampshire and Vermont. An analysis was made on the population, types of government, medium age, area, budget, tax rate, cost of schools, municipal finances, cash balance and return on investments, cost for public safety and housing. The average of all were compared to Derry.

Paul Hopfgarten thanked Mike for all the work he did. He felt a lot of the information was not relevant to the commissions work. He liked the first page on the types of government, but felt that a lot of the information was difficult to compare with Derry.

Jack thanked Mike for his work on this report. He doesn't feel the information that was accumulated through this process necessarily meets the needs of this board. There are eight communities in this report that are towns and the rest are cities. They all of have council/manager or council/mayor type of government. In all these the mayor is elected by the council so it is the same as the chairman that we have in our form of government. The other thing is taxation, and he doesn't believe the commission can do anything about reducing the tax rate. Hopefully what will come out of this is a form of government that will be better suited to work with the budgets that are involved and be able to stabilize the tax rate in this community.

Mike feels that a representative form of government is the way to go for the population of our size. We are too big to have an open town meeting.

Bill feels that there a lot of things in the report that are good but also a lot of things that are either not apples to apples. He is not sure how the other towns calculated their information, so he questions the validity of their figures compared to ours. Bill passed out a list of summary points that he felt were important - population, total budget, percent of state aid, percent of rental units, percent of commercial property of tax base, median age, per pupil cost, total pupils, school budget per million, and long term debt per million. He did not feel that you could compare the towns in New Hampshire with the towns in other states that have an income tax. Bill points out that the percent of state aid that comes to Derry is 3.1, the percent of rental units in Derry is 46% and that 20% of the taxable base is commercial. Derry has a very young median age of less than 30 years old and this will effect how Derry's political future will be.

There was a discussion on the 19 million dollar debt of the town.

Mike asked for a motion to accept the data report by the charter commission. Roy moved the motion and Jack seconded. All in favor.

The Chair recognized Roy.

Roy read the following: In order to view our ideas or opinions on the type of government we would like, I believe we should have a motion on the floor to define the action we would like to take. This is what we are here for so let's make a start, at least, to accomplish what we were elected to do.

I am going to present a motion that can and will possibly be amended. Your amendment could be to have a representative government, or to embrace some sort of ballot voting on warrant articles, or even to leave the basic charter alone and perhaps only adjust some of articles in our present charter. If we wish to vote on some procedure matter or something not particularly concerning the type of government we want, I see no problem with suspending action on the motion to take up some other matter and, if needed, to vote on that. Our esteemed government in Washington does this all the time.

The motion is as follows: That this Commission present to the voters of Derry a revised charter with the purpose of allowing them to vote for the following: To revise the

charter of Derry from a Town Council-Town Manager form of government to a City Manager-City Council government as allowed under RSA 49C. The present four districts to be city wards and to elect one councilor from each and to increase, from three councilors elected at large, to four, with a Mayor to be elected at large.

The East Derry fire district, if so agreed by them, to be dissolved and become a part of the city fire system.

If the laws of the State of New Hampshire so allow, or are so voted as to allow, the money appropriated in the annual budget of the School Department will be subject to a bottom line approval of the city council. All control of the line items of the budget would remain in control of the School Board as well as its right to exercise such other controls of the school's business as it now has by State Law.

Motion was seconded by Jack Dowd. There was a discussion on the motion. Roy didn't expect a vote tonight, because you might want to make some amendments as to the type of government. Mike asked if we were to become a city, does a city form of government eliminate village districts. Roy didn't think so, they still have to vote to dissolve themselves.

Bill believes the motion gives a framework to operate and feels that it is premature to vote until you get an opinion from everybody.

Motion has been made and seconded. Any discussion?

Mr. Grant feels that the citizens want the right to vote instead of listening to speeches. If you have a ballot law, it is nobody's business on how you vote, you go into a voting booth.

Mike understands that Roy wants to get it out on the table so we can revise it or whatever. He feels there should be a motion on the floor that says do we want to keep the existing form of government that we have now. . Mike would like to poll the board to find out if we want to keep the existing charter. With the city form of government, we give up all our rights and it is turned into a representative form of government. Mike quotes the New Hampshire constitution on the accountability of the magistrates and offices. It is also the public's right to know. He thinks that with a city form of government the people may get frustrated. They may be intimidated to stand in front of a camera and a nine members council and demand their just rights. He referred to Mr. Gross's statement that final budget approval could be by the council. Mike believes that the residents of Derry want to call themselves a town. Mike would go with a town form of government -- a town form of government incorporating a representative town form of

government, 9 or 11 people, including the school budget and incorporating House Bill 141.

Paul: He agrees with Mike. The key issue is the citizen's access to the budget. He would keep the school district meeting. He would be satisfied with a Town Council form of government with House Bill 141.

Sandra: She agrees with all of what has been said by Grant, Mike and Paul. She also agrees with a town council form of government. She believes in some type of ballot vote to give citizens a say in their budgets. The House Bill 141 is the better of the two ballot bills for Derry at this point.

Bill turned the Chair over to Paul so he could speak.

Bill: He feels very strongly that we have to have a single fiscal authority to approve the budget, a final authority that can prioritize the spending. He is in favor of a city simply because it seems to be the easiest way to have a single budgetary approving authority.

Paul turned the Chair back to Bill.

Jack: Usually the motion maker would make the statement first.

Jim: He tends to agree with Mr. Zolla in terms of putting responsibility for what the actions are taken into one hand. He believes that the budget authority has to be put into one group's hands and those are the people who understand what has taken place in planning, what kind of industry growth we are going to have, etc. and they are the ones that have to be responsible for those things.

Roy: His main reason on becoming a city is because House Bill 141 scares him. Derry is going to be guinea pigs for something that most certainly will end in court before we are done. You have to have responsible people to determine what is a logical budget and what should be voted in. If you remain a council you are still liable to come under House Bill 141. A city government will be the same type of government you have today. You would elect a mayor and ~~eight~~ OTHER people on the council and when you do take over the schools, and hopefully we can, as far as the bottom line is concerned, he thinks that it will give you a chance to get a better quality and a more in depth look at the needs of a town. He believes that with 141 we are certainly going to run into trouble. He thinks the way to go is with a mayor and have the school budget under a council. This way we would have one group of people acting upon the final bottom line.

Paul: It is more important to me to have House Bill 141. It is the peoples money and if they want to make the wrong decision it is their decision to make. He can not support a city. He will vote to move the question as it stands now because if someone wants to come up with something else they can make at fresh motion.

Jack: Grant brings up a good issue in regards to the ballot bill. The problem with House Bill 141 is you have to go to a preliminary meeting to know what is going on. We should look into some of the studies that are going on, like Conway, it took an average of 28 minutes for a voter in the ballot box, that is a long time. To poll the board, you might as well take a vote. The motion is on the table and it is something that can be discussed for the next three to six weeks, if we want to, without voting on it. Amendments can be made and votes can be taken on every aspect of the charter and they can be reconsidered. Elective representatives-- that's what we have. House Bill 141 is not the answer because we are still going to go back and forth because we still will have a town meeting that's going to put ballot questions on the ballot. People going into the voting booth are not going to know what they are voting on because they aren't going to take the time to read them.

Bill: On 141, is it true that after the second ballot, if it fails, you go back to the original budget?

Jack: It depends if you set it up that way.

Sandra: Believes it is Senate Bill 2, that Bill was asking about.

Jack: Once you adopt it, you have to plan to live with it for three years. Derry is a city and has been running as a city for many years. The issue here is how do we stabilize our tax rate. He feels that Derry's going to a city form of government and adopting a form of government that has to vote on the bottom line of the school budget, would then be able to stabilize our tax rate.

Bill: It is my understanding that if you want to discuss becoming a city, we would have to go to our counsel and get him to investigate and find out more about Laconia. Did they do away with the school meeting? The school district remains the same and the school board still has charge of the curriculum. He feels that we have to become a city. We have to manage our assets and live within our means.

Mike: Read Article 39. (Constitution of New Hampshire) "No law changing the charter or form of government of a particular city or town shall be enacted by the legislature except to become effective upon the approval of the voters of such cities or towns upon a referendum to be provided for

in said law." He believes that every citizen has the right and the responsibility to direct their agents in what they want done. He also read a portion of 141 in regards to absentee ballots. At the school district meeting you have to be present to vote, you can't use an absentee ballot. He read policies and procedures required by House Bill 141 in order to comply with ballot voting.

Grant: I would take the 13 minutes at the ballot box rather than the eight hours at a school district meeting. He would like to give the people a choice three budgets to vote upon. He feels they can do as well as some of our councilors.

Roy: Under House Bill 141 the school is one district, the town is one, the East Derry Fire District is a separate one by itself. There is no way you can put it under one basket. If you become a city, you have a chance to put them under one basket. Under 141, there is no clue at all as to what may be accepted as a budget. .

Sandy: The town has to prioritize their budget, but what the council prioritized is not ^{possibly} what my priorities are.

Bill: I would not vote for House Bill 141 or Senate Bill 2. I believe in increased representation. I believe there should be three councilors from each district and a mayor as the executive and the people can direct animosity toward him and not to each other if they don't like the way things are going.

Paul: We can't force the people to know what they are voting on. What's the form of government that will work best for the people? Being a city doesn't increase our ability to do things any more that the council we have now as a town.

Bill: He would like to entertain a motion that we call our meetings at 11:00. *(IT WAS NOT THOUGHT THIS WAS NECESSARY.)*

Mike: Mike made a motion that the chairman contact Mr. Gross to see if we could have a Town Council form of government under which it votes on the school budget, and also incorporates the provisions of House Bill 141. Paul seconded, and offered that we mention ^{IT} was in the case of the City of Laconia.

Jack made a motion to amend and have our attorney look into the city and school make up in Laconia prior to the adoption of the home rule charter they adopted pursuant to the then current enabling statute RSA 49A. Mike seconded. All voted in favor of the amendment and then a vote was taken to accept the motion as amended. Passed.

Jack: He would like to table indefinitely the motion to revise the charter until we review the information back from our attorney. Mike Seconded. Paul voted no. All others in favor.

Jack: He would like a copy or some information of the study that is on-going in Conway regarding ballot voting..

Paul: He will contact Exeter and Merrimack in regards to what they are also looking into regarding.

Bill: Roy will contact Conway.

Jack: On House Bill 141, each individual district can have their own 141 which could lead to additional meetings and additional voting and each individual district could go on doing this regardless of the other districts actions.

Paul and Jack: They would have to have a charter commissions from each district for House Bill 141. Senate Bill 2 is voted on during the meeting of a district with a 3/5th vote.

Paul asked if TV 38 could have ^{Telephone} call ins. The feeling was that it is too early to do this.

Meeting adjourned at 9:15 p.m.

R.F./C.G.

cc min #8

DERRY CHARTER COMMISSION
MEETING

August 7, 1995 at DERRY PUBLIC LIBRARY

Members Present:

Grant Benson	Paul Hopfgarten	William Zolla
Jack Dowd	Sandra Hopfgarten	
Roy Feinauer	James Lupien	
Mike Gill	Fred Tompkins	

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of July 31st meeting was made by Paul Hopfgarten and seconded by Grant Benson. All in favor except Fred Tompkins abstained.

Chairman's Report

Roy Feinauer received correspondence from Martin Gross forwarding a copy of the word processing diskette containing the text of the present charter and confirming that he would be present at this evenings meeting. Mr. Zolla received two letters regarding recommendations to the commission which he will save for next weeks meeting.

Committee Reports

Data Committee Report - Mike Gill has heard from all the communities. He will meet with Paul and Jack early this week and present a report at next weeks meeting.

Chairman Zolla introduced Robert Ambrose, Deputy Secretary of State.

Mr. Ambrose explained how we got to where we are and some alternate forms of government that are available. One of the things that has been happening at the State level - There has been an attempt to offer more options to local governments and how they govern themselves. This year they added two more options House Bill 141 which allows for official ballot voting to the charter process and Senate Bill #2 which allows official ballot voting by amending warrant articles at town meetings. These are two even newer changes. The issue that he thinks that people in New Hampshire are dealing with is trying to deal with a conflict that happens when you try to change the form of government which takes away direct democracy which so many communities in this state have had for so long other than the cities. When you do this there is a direct conflict, when people want to protect that system and keep the traditional town meeting, and when people say we are too large and can't govern ourselves and we should look for a different way to governing ourselves. The Town Meeting in New Hampshire is

the oldest form of government in the country. We have had Town Meetings since 1630. The first towns at the seacoast governed themselves as a separate little republic. At some point after we turned away from Massachusetts, people decided that we should have a provincial government so that we would have some consistency from town to town. The towns went along that way with changes which expanded what town meetings could do, and added the different positions that could be elected and appointed. It went along that way until 1846 when Manchester finally got to the point where Derry is now and said we are just too big to govern ourselves through the direct democracy process and they would like to look for another way to governing. That's when somebody said, the next logical step, if we are too big to use direct democracy, is to have people come to a meeting, allow them to discuss and come to a consensus as to go to a representative democracy. So the legislature set up a charter for the City of Manchester--the first city in 1846. For a period of time cities and some of the larger towns and even some of the smaller towns like Franklin became cities, that was the process that was used. The legislature would view their charters to make sure there was some consistency, Really under the same principle that we are using now, with a body of statutes that told towns basically how to govern themselves, even though it was up to the people in town to decide how much they wanted to raise for the schools, how much they wanted to raise for the business of the town. There was a body of statutes that said this generally is the way towns govern themselves and there were statutes, or approval of the legislature, that this was the way cities are to be governed. In 1966 there was a amendment to the constitution that said that we ought to provide for home rule and in 1979 the legislature passed 49B which implemented that. It essentially gave towns like Derry the opportunity to come up with their own form of charter. In 1984 Derry came up with the first charter in the state other than the traditional city form of charter. The problem resulted from that -- was that the constitution says that you can have a charter as long as it doesn't conflict with the state law and, as you recall, Derry said that they are going to elect their officials at biennial election day because under home rule we can do that-- we can do pretty much as we want under 49B. The State said wait a minute, 100 years ago the people of the state amended the constitution to get local elections away from the biennial election because they felt that the local elections were being too influenced by national politics. So that didn't make sense -- that we had laws that said town meetings were on a certain day and cities couldn't have elections on biennial election day. I guess the argument was that because we are not a city and we're not a town -- we can do it on biennial election. That was an example of the problems that happened. Every town that came up with a charter, the state would say that's a violation with this

statute and that statute, and it wasn't really worth it. So finally in 1987 the legislature said that we had to come up with a blueprint. This is really not fair to the town saying that you have home rule and, when every time you come up with a charter, we are saying that it doesn't work because it violates this statute or that statute. So finally, in 1987, the legislature passed a bill that set up a study committee. The purpose of that study committee was to come up with a blueprint for people, that are in the middle of the process that you're in, to follow to decide how they want to govern themselves but once you have made that decision. Again it was a tradition in New Hampshire to set statutes that gives you a blueprint to follow. So the Legislature set up this committee and the result of the committee was essentially that the statute was written so the charter commissions would ~~#1~~ make the first decision that you have to make -- "Do you want to be city or do you want to be a town?" If you want to be a city, you immediately go to 49C which pretty much took the old RSA 49 and rewrote some things and put it in for cities to follow. So you would have a city form of government like Concord or Manchester. You would either have a mayor and board of alderman, or council, or a city manager and a council. Again you would have a body of statutes that told you how to govern yourself, gave a blueprint of statutes to follow if you became a city. That was your first choice. At the same time the legislature recognized that although you may have grown to the point that you're too big, or you feel you are too big, to govern yourself under a town form of government, that there ought to be an alternative to that, but allow the towns not to call themselves cities. Because a lot of people just don't like the sound of the word city, and so from that there was another set of alternatives in 49D which said that you have a couple of alternatives, that you become a town council and pretty much follow the same provisions as cities. Council passes the budget. There are a couple of alternatives to bond issues. Under this form of government, bond issues that are over 10% of the operating budget of the town would be voted on by the people. Basically a city form of government. Another alternative to that, was the legislature said there are a lot of towns that are in between, they want to be able to keep their town meetings but they don't want to deal with 75 or 80 warrant articles. They are just too big to deal with that and it's taking them 2 or 3 nights to do that. We think there should be the alternative that you have the council, but then you have the budgetary town meetings where people in town vote on the budget and the rest of the business is done by the council itself like a city. So that was the second alternative. There was for a long time, something that is used in Massachusetts, a representative town meeting. That in fact was in our laws years ago, was taken out and then put back in. That is something that is used in Massachusetts to some degree and a few towns in Maine and

maybe one in Vermont. Which the town, the size of Derry, would divide up into districts and still would have a town meeting except you would elect people from the district and those people would go to the meeting to vote on the issues that come before the town. So that was another alternative that was put back in three or four years ago. So under a town form you had those three basic options. The purpose of that was to give towns blueprints so they didn't get into the mess that Derry got in with some of the things that happened here. Not because Derry was doing something in violation of the law, but because some of the people at the State Department was saying that our law says that you have to do this and you're saying that you changed it under the charter process. So there was a lot of confusion and actually a couple of the things went to the Supreme Court. So those are the basic forms of government that existed until this year. This year there has been a lot of discussion, actually it was two years ago, with House Bill 497, which set up again a study committee to look at the process of official ballot voting. Again, there's the conflict that we have. We have a long three hundred year tradition of direct democracy and we have presidential candidates, Lamar Alexander and Ross Perot and Bill Clinton, going around the country having town meetings, because I think it is recognized everywhere that's the purest form of direct democracy. I can go to the school district meeting and cut the budget, add to the budget or take something out of it. That gives me the most influence. So you have some people saying don't give that up, and you have others saying that the meetings are too long, older people can't sit there, we don't have a hall big enough to get everybody in, we have to have voting by an official ballot. What happened with that was the legislature said the house had a position that we want that's a change in the form of government, and that should follow the procedures of a charter revision. Because it really is a fundamental change in the way the government is run, we are giving up direct democracy. So they passed House Bill 141 which allows a town to set up a Charter Commission and adopt an official ballot policy for that town. So the town has the flexibility of saying that we are going to put bond issues and the budget on the official ballot, and we are going to deal with closing of roads and things like that at the meeting itself. If you have a town meeting, so that gives the towns flexibility. The Senate says that's too long a process, you want this to be able to go through quickly. So that was the argument. So out of the Senate came Senate Bill 2 which was endorsed by the Granite State Taxpayers. What this bill says is that if a town votes to, or school district votes to, as is the case in Derry, vote to do everything by passing, the provisions of Senate Bill 2 that everything would be done by official ballot. Again the old conflict came in, people said "wait a minute we are losing direct democracy". So out of that bill came a system of government, that I don't know

if it exist anywhere else, but it provides for a meeting. If the Senate Bill is adopted, it provides for a town meeting before hand, at which people can go and amend whatever is on the warrant. That meeting would be in March. What comes out of that would be voted on by an official ballot the second Tuesday in April. If the budget is turned down by the people, by official ballot vote in April, then the governing body, the school board in Derry, could decide that they were going to have another meeting. They could have another town meeting that people could come, amend the budget, discuss it, propose amendments and then from that thirty days later, they would have an official ballot vote. If the budget was turned down again, it would go back to the previous years budget. There are a lot of questions about it. One question is how many budgets can we have? There is nothing that says you couldn't have a budget proposed by the taxpayers association, a budget proposed by the school board, a budget proposed by the PTA. You could have five or six budgets on the official ballot and they could all pass or three of them might pass or they might conflict. Those are some of the questions that come up. But, now it is an option that is available to the towns through the official ballot process. And those are basically the options that are available. I will try and answer any questions that you have. I think it boils down to the first decision. The way the law is written, as I understand it, is that the first decision that has to be made is whether you want to be a city or a town. As I see it the advantages to being a city is then what you have is the body of statutes, 49C, WHICH SHOW this is the way cities work. It seems to be working with the smoother chartered towns. On the other hand, if you become a town, you have more flexibility. You can vote on bond issues by referendum, you can implement a budgetary town meeting with an official ballot or without an official ballot, with Budgetary Town Meeting using HB 141, or Senate Bill 2. There are a lot of variations that towns can use that cities can't. Cities pretty much have to follow the statute that outlines how they pass their budget and THE authority of the town under 49D doesn't do that.

Question - Bill: In Senate Bill 2 you say they hold a meeting in March and the second Tuesday in April with a ballot. If the proposed budget gets turned down, they will hold another meeting? Answer: If the proposed budget is turned down, the governing body can decide whether to hold another meeting or not. If they decide to vote on it again, then you go back to another meeting with the authority to amend and have an official ballot vote, and then if it is turned down again you go back to the previous year's budget. Then you're all done, you don't go on for ever.

Question - Paul: On Senate Bill 2 if the figure is voted down by the voters in April, what are the requirements for the school district or town to have another meeting? I know

some special meetings require half the registered voters to show up at that meeting for it to be a valid meeting. Is there a specific legislation in Senate Bill 2 that says that this does not have to happen and if not what are the specific criteria for creating that secondary meeting or can the governing body just say we are going to have another meeting and that's it? Answer: I believe the way the Senate Bill 2 is written you don't have to get permission from the Superior Court and it is a decision by the governing body whether to be held or not. Right now if a town wants to have a special meeting ~~to~~ appropriate money ~~it~~ has to get permission by Superior Court or have 50% of the voters there. I believe the way Senate Bill 2 is written, it is a automatic thing that the governing body can ask for a re-vote and if it is turned down again then you revert to the previous years budget. Paul: It is my understanding you do not have another meeting you just re-vote the ballot number that was originally turned down? In other words do you go and have another meeting? Answer: It is up to the governing body.

Question - Paul: House Bill 141 would be inacted through the charter. Now can there be restrictions on that kind of thing happening through House Bill 141 i.e. writing into the charter that it would automatically revert to the previous fiscal years budget if it's turned down by the voters? Can that be put into 141? Answer: As I understand 141, you can do that. I think there is a paragraph in there that says you are suppose to specifically deal with issues as to what happens to the budget and that type of things. It is my understanding under Senate Bill 2 you don't keep going back. You only go back once. The people would come in with another number. They would try and get a sense from the people that the budget was either too high or too low and then come with a different proposal. If that was turned down you would revert to the previous fiscal year's budget. One of the issues with Senate Bill 2 is you have the initial meeting that has the authority of the town meeting and the law says you can't pass or kill anything that is on the warrant. But one of the examples that has come out^s that you could have 90% of the people in Derry say we want the sidewalk fixed on Main Street. You can have people come in with a petition and say we want to raise \$50,000 to fix the sidewalk. Five people could show up at that first meeting and could offer an amendment to raise and appropriate \$1. to fix the sidewalk. That effectively would kill that and that's the question that then goes to the people. They don't have the opportunity to vote on whether they want to raise \$50,000 to fix the sidewalks.

Question Mike: House Bill 141. They talk about implementing that 49D:3 Paragraph 1 and 2 but they don't mention paragraph 3 which is a representative form of government. Am I to assume that the legislature left it out

deliberately or accidentally? Answer: Representative town meeting is an option under 49D. I guess your question is whether if... Mike: The question specifically is if 49D:3 Paragraph 1 Town Council type that we talked about and they add in parts of 141 1A, and then we have paragraph 2 Budgetary Town Meeting and they add in paragraph 2A, and if you go to paragraph 3 Representative Town Meeting there is a variation of the open town meeting. They did not put a 3A in there. My question is 141 where there specifically addressing paragraph 1 the council type and paragraph 2 the budgetary town meeting? Answer: I really don't know the answer to that. It may be what they were saying, if you have a representative town meeting and if you are voting for representatives to go to the town meeting then you don't want to have a ratifying process after that. I don't know the answer.

Question - Mike: Under 141 on page 4 it has RSA 197:5 Budgetary Official Ballot. I think what they are trying to do is to put that into the school side, if you will, so that the mechanism^{is} to go through the voting ~~by~~ a ballot bill. I think that's what they are doing. A lot of people have come to me and said you are on the Charter Commission, I want you to make sure that happens to the school. I ask this question-- Do we, as Charter Commission members, have the authority to offer to the residents incorporating the school district with the town in ~~the~~ ^{using} 141? Answer: You may want to get a legal opinion on that. I believe that you as a Charter Commission are sitting here to look at changing the charter of the town and you were not set up by the school district which is a separate governmental entity. I agree with you that section of the law allows school districts to establish official ballot voting but I think that it has to be set up by the school district. It can't be done through the back door. Mike: says that they refer to the school board as a part of the municipality in that paragraph in 197 so I'm a little confused as to our authority as the Charter Commission. Ambrose --Your question is can this Charter Commission propose an official ballot system for the school district? Mike: For example we come up with some sort of government for this community (a charter) and we present that to the voters as a warrant article in March and, let's say, in part of this charter we incorporate 141 to include the school, could we have a second warrant article for the voters to vote on? In that vote the school and the town, everybody has the same geographical location and same boundaries strictly Derry school system? I think the question is "can you take over control of the school as a town by voting in a charter?" Ambrose: I don't believe that you can. I think the school district which is wholly separate even though it is the same town, would have to vote to dissolve the district some how and that's, I think, the position the Department of

Revenue is in. I don't think you have the authority to do that, I think only cities can do that.

Question - Sandy: Another question regarding provisions of Senate Bill 2 verses House Bill 141. The example that you gave earlier with the Senate Bill 2 where a small minority might basically undermine the will of the majority. If that were to happen couldn't you vote that down, bring it back to another meeting, and put it back on the ballot? Answer: Well, if you had a special warrant article to raise money through a bond issue and it was amended at the first meeting to raise a \$1. so effectively it was killed. Then its voted either up or down by the people on the official ballot. That is the end of the meeting, The only way to deal with that issue again would be to call a special town meeting which would take permission of the court or 50% of the voters. You would have to start all over again.

Ambrose:

With House Bill 141 the budget that you are voting on is the budget drawn up by the governing body with no amendments. Right—because you don't have that first meeting. What 141 does is sets up a system that Vermont uses in some of its towns and Maine uses. Maine has a similar charter process which decides what is going to be voted on official ballot. But under 141, you are just taking, really, what 's done at a meeting, instead of voting on it then you vote on it by official ballot. You are treating whatever other articles that you want, 39 3D now say that these articles can be done by official ballot -- zoning questions, elderly exemptions some of those articles go on an official ballot. 141 gives the community the authority to expand what 39 3D limits them on. Say that we would like bond issues on the official ballot and the budget, but there isn't a meeting prior to that at which people can go to and amend. There are public hearings but no other meeting that gives them the right to amend. So the budget that's proposed by the school board or the town, or whoever, by following 141, ^{is} what the voters vote on. That is one of the issues. For example in Vermont ~~the~~ law specifically says that the budget that is ~~to be~~ presented to the people, whether by official ballot or open town meeting process, has to come from the governing body. It can't be touched before that. So it goes to the governing body and ^{is} ratified by the people under 141. In Senate #2 it goes from the governing body to an amending meeting ~~where~~ anything could happen ~~by~~ the people. Senate bill 2 in my opinion isn't clear in that you could have a special warrant article with alternate budgets. So you could have four or five budgets that are on the official ballot and either all of the could fail, or two of them could pass. So that is an issue that somebody has to look at. Sandy: Where we could write 141 into the charter and make some provisions for it such as what happens if the ballot budget fails, would we be able to make any kind of provisions where as if the ballot budget fails. Is there

any way to have a town meeting to possible amend it or would the governing body have to come up with another budget or could we just write in that we would revert back to the previous year's budget? Answer: I don't know how you could do that. You had the official ballot vote and the town votes and then the budget fails. Sandy: If the budget fails so you have no budget or you refer back to the existing budget of the previous year. I know that's kind of open ended in 141 because there is a lot we can write into the Charter. Answer: That's the way I understand 141, it allows you specifically to write in how you can deal with that. Sandy: So we can possibly write into 141, if we incorporate 141, we could write in how we would handle a failed budget? Answer: I believe you can. I can give you an example of a interesting town in Barre, Vt. They came up with a proposal that they voted on their budget by official ballot and then they have their meeting afterwards. If the people vote down the budget that is proposed by the governing body, that's warning to the people that if you don't like what the governing bodies come up with there is a town meeting in three days and then the budgets must be dealt with and you have to come up with a budget at the town meeting. That is not allowable in the current law 141, that is how we dealt with it.

Question Paul: Since 1979 when charters were allowed, has anyone in New Hampshire attempted to become a city since RSA 49. Answer: No. There has been a couple of cities that have talked about becoming a town. But no ones has actually has gone through the process.

Question #2 Paul: Also in the same time frame has anyone gone to court and are there court documents regarding combining school districts and a municipality whether it is a town or a city since the charter rule has been in effect? Has any town tried to take over the school district and gone to court? Answer: No, I think Exeter looked into that and they got an opinion that they couldn't do it unless they became a city. Paul: So it has never been in New Hampshire courts it has only been legal opinions. (Mr. Ambrose can't say it's never been.) You don't know if there are court documents that we can access? Mr. Zolla felt it would be a question to ask Mr. Gross.

The Chairman introduced Martin Gross the commissions attorney.

Marty Gross: Good evening, it's good to be back with you again. Perhaps we should go into syndication and put this on cable, then we could have re-runs and save all the extra work of having more meetings.

I believe the legislators have opened up a near mad house of choices and there is no law on these choices; no legal

opinions and if you chose to pursue one of these choices you will be truly plowing new ground.

There are some fields that have already been plowed that you may chose to follow and the one question that was brought to me by your chair is, "Can a single vote by the electorate for a City Charter incorporate the existing School District into that Charter at the same time?" I wrote him back that I would set to work to answer your question on July 13th regarding the incorporation of the School District with a new City Charter. I am taking the liberty of expanding the question somewhat to include the potential for providing for a unified final budget authority in a City Council without necessarily incorporating all aspects of the school district operations within an municipal administrative set up. I broadened the question, which was asked whether it's possible to incorporate the school district into the municipal government, to say whether it's possible under current law to unify final budgetary or fiscal questions for both the municipal expenditures and the school expenditures. I believe that I have found a case that can help the commission. I would like if I can, Mr. Chairman, to hand you a letter and legal memorandum and a copy of the case to each member of the commission. I did not make enough copies for the public and I apologize for that. I am sure that the Commission will be able to make these available to the public when the time comes for discussion of this particular option. The short of this letter and memorandum is that we found a case that apparently has alluded to all the previous opinions presented to either the school district or the charter commission of Derry in 1980 and that is the case involving the City of Laconia in 1971. There, the City of Laconia had, by home rule charter option dated way back in 1963, adopted a Home Rule City Charter which placed final budgetary authority over the school district expenditure in the hands of the City Council, and the School Committee had an argument with the City Council over the level of the appropriation. The Council had declined to give the school board all the appropriations the school budget called for and the School Board took this to court. The Supreme Court ruled that, under the circumstances, the City Council had the authority to amend the expenditures of the School Board. So there is an example of a city in New Hampshire under New Hampshire law which adopted a Home Rule City Charter which put final budgetary authority in the hands of the City Council and the New Hampshire Supreme Court, in effect, enforced the charter provision. All of this happened before the constitutional home rule amendment but that doesn't make any difference because it turns out the language of the statute in which Laconia was acting is exactly the same language that currently exists in 49C which is precisely the same provision. So what you will see in my letter, and memorandum, is essentially what I suggest to you if you want to pursue that option. What we would do for you is to look

much deeper at that Laconia case and make sure we understand what the actual charter was and find out what was argued in the case. But there, for the first time, we have a strand of legal support for the proposition that if the Town of Derry should decide to adopt the Home Rule City Charter and incorporate in it the language that was in the Laconia Charter and was approved by the New Hampshire Supreme Court, and if everything was equal, I guess the New Hampshire Supreme Court would rule the same, and if the Derry School Board then takes the Derry Council limiting the school expenditure to the Supreme Court, would rule the same way and they would uphold the charter. There is a way to do that and it involves adoption of a City Charter using the same language and acting under the same operative of the provision of the state statute that Laconia did. As the ad says, Just do it. That is the way to go about it. Nobody has to guess because there is that New Hampshire Supreme Court decision in the Laconia School District case.

I have not addressed the opportunities for unifying fiscal control over municipal and school district expenditure under these new variances. I say that is truly unknown territory. I can, generally, answer questions about what might happen under 141 and in response to an earlier question, I think, as I understand 141, that it is the charter option for the official ballot. The town would get to decide what revisions would deal with budgets. If you want to be pioneers, I will help you.

Question - Paul: Mr. Gross, thank you for coming this evening. We have had some questions regarding the School District, in the past, whether they are cooperative or not and frankly I am still, even today, not clear exactly what the case is. We get building aid as if we were cooperative yet I have been told that Derry School District is not cooperative. Now my question to you how does that effect this, could a cooperative school district, for example, use the Laconia case, could the same thing happen if Derry ceased to be a cooperative school district, and question 2 is how would that affect the Derry School Districts building aid monies if we became a city and in essence became a single budgetary unit. Because my guess is that we probably couldn't do it with a cooperative School District. Answer: By cooperative do you mean multi district? Paul: Originally Derry was multi-district in the school department and I believe that they do get building aid and I'll stand corrected if I am wrong, they get building aid at the rate that cooperative school districts get. Mr. Gross: Well the facts as given to me were that Derry has a single school district at the current time the orders are coterminous with the orders of the Town of Derry. That is exactly the same orders in one school district that occupies the entire town, however that is "quote" a cooperative district or not, I am not prepared to say. The premise as you see in the

memorandum for proceeding to adopt a city council form of a city charter that vest in the city council all the authority of the school district expenditure is that the voters of the municipality of Derry and that the voters of the Derry School District are one and the same. They are identical. The state has delegated the authority to the inhabitants of the town. It is the inhabitants of the town that are the final legislative authority for the school district just as the inhabitants of the town at a standard town meeting form of government are the final authority for town affairs, and under the charter revision process the inhabitants of the town are the final authority for determining what form of charter the town or city will adopt as long as it is within the statutory patterns. So if the inhabitants of Derry are all the inhabitants of the School District, it is our theory based on the Laconia case that inhabitants by the charter revision process can create a situation in which the Derry City Council, that's what they would be, would have final fiscal authority.

Question Paul: Could I have one quick follow up what about Mayor-Alderman form of government you mentioned council. Would you not make the same statements for a Mayor-Alderman form of government? Is Manchester the only one who has that? Mr. Gross: Yes. Paul: And they have the school and I know they are before all the .. Mr. Gross: They were chartered by the State. Paul: I guess my question is, in your opinion, would this same case be in effect if we choose Mayor-Alderman? Mr. Gross: I am less clear on that. The reason why I am less clear is that the Laconia case involves a council-manager form. I would say to you, if you want to follow with as little change as possible. In other words go with a council-manager form of city government and use the same wording in your charter as Laconia and rely on the same wording of the state statutes.

Question Bill: I have a question Marty, in that the body politics are the same with both corporations, if you will, is one corporation automatically dissolved with that vote? Answer: No, and that's what the vote I am speaking of in the City of Laconia? Bill: Yes, .. Marty: No and that's why I say the only change that will work is the change in the identity of the final legislative authority for expenditure purposes. Otherwise the School District administration remains the same. The School Board continues to select the Superintendent. The School Board continues to select the teachers, all of the internal administration remains in the School Boards operation. The only thing that has changed is that the School District budget does not become final until the City Council announces. Bill: The Council doesn't have anything to do with curriculum or anything else? Answer: That's correct. That is my understanding. That's under the Laconia package.

Question Mr. Gill: Thank you for coming. I have talked to members of the school system and they have indicated to me that they would be willing to look at a city form of government where a council form would allocate the budget. A question was brought up to me and that is there is another *AUTONOMOUS* group in the community and that's the East Derry Fire District. I don't want to start any wars or start anything what's so ever, but if we became a city, the East Derry Fire District, is there a mechanism for them to merger? Could you expand on that or maybe this is too soon to get an answer? Answer: This will be a very preliminary answer. Yes, there is a mechanism for the East Derry Fire District to dissolve itself into what would be the City of Derry. As I understand it, I haven't done any research on this, so anybody in the room could correct me and they will be more right than I am. East Derry Fire District established itself by the vote, I believe, some time under authorizing statute as what they call a municipal services district, a special function district. There are provision under state statute for a special function district to dissolve itself and surrender all its powers to a larger municipality. They can do that now and surrender to the town without changing to a city.. Mike: But as I understand from you, if we were to vote to become a city, we could write such a charter that a city form of government would have control of the dollars and cents that would be sent to the School Board. Answer: Yes. I am not sure that the reasoning is the same. I am giving you that advice because I know there's a New Hampshire Supreme Court case that gave effect to a city charter that did that with respect to the school district expenditure, but there according to our reasoning the voters of the two districts, the school and the municipality, are identical. Whereas the case you are speaking of the East Derry Fire district they are not and I think probably it stands to reason that if the voters of that district under the authority of the state law conforms themselves as a separate special function district that it is probably those voters that would have to say they were going to surrender fiscal authority over themselves.

Question Mr. Tompkins: Good evening, Mr. Gross, my name is Fred Tompkins. If I could refer to it as the Laconia example council, would that type of council be able to modify the budget for the school or is it a strictly an up or down vote that we would take on a budget that is proposed by the school board? Answer: Take a look with me at the decision and let's see how that came up and see if we can get a clue on it. As I said earlier, we have not gone behind this case for it to get the detail because I didn't think there was any point in spending the resources of the commission until the commission told me that they wanted to head into this direction. If you look that is attached to the back of our letter of opinion, you will see-- Fred: I see C.J. Chief Judge Kenison voted it. Mr. Gross:

Yes, it is a really remarkable. Fred: This-you don't usually get it turned around at this time. Mr. Gross: Well, I love it, since you mentioned it, the first paragraph states, "The parties have asked us to settle this litigation and also to provide some guidance for the future." and this is the classic counsel sentence. "This court can only seek to provide the correct answers to the solvable problems and the least erroneous answers to the unsolvable problems." I think it is just a wonderful example of how the man thought and what the practical guide he was as the Chief Justice of the State. If you take a look at page 391 it gives you the history. A budget in the amount of \$2,611,317 was submitted during in the first week of May. In June, pursuant to authorization from the city council, the school board adopted a dual enrollment plan the estimated cost of this program was \$70,500 and apparently it was funded by the State. This increase, some things never change, the budget requested by the school board to \$2,681,783 which would be reduced by an estimated school district revenue of about \$507,000 and would make the total net appropriation requested for the school district approximately \$2,175,000. Minor adjustments were made in the school district budget after discussions with the city manager and the superintendent of schools. The teachers reported for duty etc. The school board had entered into all contracts. The budget hearings on the school district budget were held on September 22 and September 29. On October 11th the school board at the request of the city council submitted a list of suggested reductions. So here you have the city council saying to the school board your overall budget is too much, submit to us a series of suggestions for reductions. Fred: Under the city council it says here public hearings Mr. Gross: Are you with me on the first full paragraph on page 391 the second sentence? Fred: It says "Budget hearings on the school district budget were held on September 22 and September 29 attended by several hundred citizens, the overwhelming majority of whom demanded substantial reductions in the budget. Mr. Gross: Okay, keep going. On October 11th the school board at the request of the city council submitted a list of suggested reductions totalling about \$200,000. That's where I stopped and said it gives you an indication of what the give and take was. On October 14th, here it goes, the council made an across the board reduction of \$175,000. So at least in Laconia what gave rise in this case not just an up and down by the council, but the council said to the school board we are docking you \$175,000. This appropriation was more than the appropriation for the previous year. A larger cut was made on the municipal side of the budget. Despite the budget reduction, the 1971 tax rate in Laconia rose etc. That's what gave rise in this case. I guess the school district took the city council to court and said you can't do that to us. You can't take \$175,000 out of our budget and the city said oh yes, we can

our charter says we can and the court held that the council could because the charter said they could. So that implies that the court was upholding the home rule process by which the city had adopted the charter provision which gave the council the final authority for the school district expenditure. Fred: I take it by the way you phrased your position here that towns would not be likely to have the same power here as cities in this instance. Answer: In our memorandum we say to you that theoretically you could also do the same thing with a town council form of government that you presently have. The reason you can is because the current inab~~le~~ law gives town councils, just the kind you currently have, all the authority of city councils and it was the authority of city councils which was the thing that made the Laconia situation turn out the way it did. So theoretically you could say the Town of Derry with your town council system and propose a charter amendment which would do and contain just exactly the words that the Laconia City charter had and theoretically come out the same way. But I can't tell you that somewhere there is a turning that I haven't noticed yet. If you stay with a town council form, you are not exactly following the precedent of the Laconia case. Because Laconia adopted a city charter with a city council by a home rule and if you want to follow the exact foot prints of the Laconia case you would adopt a city charter. Even though I can show you a route through a statue which theoretically would support doing it with a town council form as well as a city council.

Fred: Excuse me Bill, I have a series of questions, may I continue or do I have to wait for round two. I am getting interesting answers here, I don't know what kind the rest of you have. What happens to village districts, this question was asked somewhat before as I read RSA 44 it seems to indicate to me under a city form of government districts would disappear almost automatically. Answer: Again this is not, as I said in response to the earlier question, this is not a question that I have looked into.

Fred: All right, again as I read under RSA 44 it also seems to me that one of the things that a city can do that a town can't is choose it's election day as long as it doesn't fall on a biennial day. That day appears to be sacrosanct. Answer: So they say. The Secretary of State and I have some discussion about that. Fred: So have I. All the calendars in the world credit biennial day as it happens every two years in New Hampshire with the words printed on it as election day. Most people know about that day and really don't try to hard to inform of that day, but in any case it is in the statutes since prohibition. One of the other issues I had in mind besides the village district question, was the one about wards. In a city it appears that, well one of things that happens both the city clerk or the clerk of the municipality becomes a city clerk and as

such it is an appointed position according to statute and then the treasurer becomes the city treasurer as opposed to the town treasurer and by virtue of that title is appointed rather than elected and beyond that it would appear that if the community is divided up into districts those districts take on the significant of wards and then would require that they have ward moderator and ward selectman and would have elections for each of those wards. We call ours districts here in our community. I am not certain what 44B means about the sizes of wards. The statute also goes on to say, that in cities wards must be treated as though they were towns which would immediately mean that our representative delegation would have to be carved up with a fashion to the representative population would be from their representative population the various individuals would have to be members of it in order to run for the ward if it were a ward. Mr. Gross: I am not certain if you are reading that right. Whether that's a problem or not for us in terms of keeping us running as a whole. How are your election districts currently staffed, may I ask. Fred: No, they are not. We carved them out of four council district. We currently elect one councilor from each district and we elect three councilors at large. They are three year terms and we divide it up where we elect one district councilor and one at large councilor in two of the three years, and the third year we elect two district councilors and one at large councilor. Mr. Gross: One voting place right now. Fred: We have two. Mr. Gross: Some how you figure out who to hand ballots to vote for the appropriate the district representative? Fred: Yes. Mr. Gross: The short answer to your question is, I think you have a whole lot of flexibility on how you deal with your voting places. The precedent I give you is what happened with the City of Concord. The City of Concord has wards just like cities do, but the City of Concord we have no ward selectman. Our supervisors of the checklist performed all the functions of the ward selectman and we continued that in our current charter. I don't think you have to worry at all about your legislative representation because it is the legislature that tells you what districts your legislators are collected from. So no actions by you, not in the city charter in setting up the wards, would do that. Subject to further review, I keep on saying that this is my first session with the commission and I don't know all the questions. I would like to give you a preliminary viewpoint that you can write your own ticket as far as your wards are concerned. So that if you decide that you want a single ward for the whole city, do that. Then the question comes how did you set up your representative sectors for your city council to follow the representative sectors that you currently have, that your town council that matters. You make it work now, I don't see why you couldn't make it work. Fred: In other words you are saying, that we could have a single ward that is town wide, city wide in this case, and we could divide it

up into four councilor districts if we wanted to but we still have one ward? Answer: I know of no state law that would prohibit you to.

Bill: The state law requires two thirds vote of a district to dissolve itself, but we are not dissolving a district here. A school district, now I am back to Laconia, they are not dissolving a district. They are not interfering with a district at all with the exception of taking final approval of the budgets away from school board and placing it with the council. Do I have that right? Answer: I believe you do, and I would like to add that there is currently no, presently, no state law that permits a townwide school district to dissolve itself. There are provisions of state statutes that permit districts within a town, that don't occupy the whole town by the vote that we described to dissolve themselves into a townwide district but none that specifically authorize a townwide district to dissolve.

Roy: You were talking about the different wards, and the fact that perhaps in some cases we could elect the state representatives at large, in effect, in other words we could say wards 1, 2, 3, and 4 have eleven representatives so we would in effect vote "at large" even though each district or each ward would make the separate votes, the representatives themselves would actually be from the same ward. Answer: Mr. Feinauer, I guess what I was trying to say was that when it comes to state representatives they tell you how you are going to elect them rather than you telling them. Because the representative districts are established by state statute. Right now, my guess, is you have a proportionate statute that you are the Town of Derry is allotted how many?

Roy: eleven. Mr. Gross: Are they all elected at large?

Roy: Yes. Mr. Gross: And until that state law gets changed that's the way it's going to be. Nothing this charter commission can do to alter that.

Question Jack: Under Laconia's scenario, Marty, did that eliminate the school district meeting? In other words, did the budget go directly from the school board to the city council? Answer: I don't know, because I haven't researched it to that extent. One of our recommendations is if you want us to pursue that option that you have us look into questions just like that. We do not know the circumstance that existed prior to the time the charter was adopted. We don't know whether as part of that charter adoption that the school district meeting was eliminated. It could have been, but I can't answer your question right now.

Question Mike Gill: On a different approach, other people have come to me and said how about proposition 2 1/2. Does

this charter commission have the authority to put in some limiting budget for future whether we be a town or city? Can we do our own Massachusetts proposition 2 1/2 with a budgetary committee with an increase of x amount? Answer: I don't believe so. For all of the home rule provisions of state law the localities of New Hampshire have only the powers that are expressly given to them by the legislature for reasonably applied from expressed powers and currently there is no provisions in the state law, which in my opinion, would authorize a locality to bind through a charter provision next years legislative body. Each year is a different fiscal year for a town, each year is a different fiscal year for a city, one city council can't undermine the next city councils in terms of expenditures. I suppose you could write in provisions for the majority to make sure that any budget that is adopted at any time has to be adopted by say 2/3rds vote of the council or something like that. I don't know of any provisions right now of state law that would authorize a charter to limit, to actually put an expenditure cap on a charter. The city of Franklin has an expenditure cap. They adopted that by an ordinance.

Question Paul: On the same issue, you just mentioned Franklin, what is the circumstances surrounding Nashua's budget? Answer: I believe that's ordinance. Paul: When you say ordinance could you just clarify that? Answer: It is just a law passed by the state legislative body. In the case of Nashua, again I would want to take a look at because I am not exactly clear on how they enacted their expenditure account. Question: Did they enact that by charter? Answer: I think it is a charter. I think what the situation there now is, as I understand it, they have a section of their charter that deals with that and petition to amend the charter that deals with it one way and the council wants to put in a petition that deals with another way. The two conflict. I think it, is a charter.

Bill: Further questions from the commission? Questions from the public, if you would like to ask a question, please come up to the microphone over here so the folks at home can hear you.

Question My name is John Gleason. Mr. Gross could you explain the home rule, you mentioned several times with Laconia, how would that compare to say our present charter structure to make a comparison there. Answer: You presently have a home rule charter in Derry. It was adopted. The town council form of government was adopted by the Town of Derry under, so called, home rule provision and acted by the legislature. It authorizes towns to set up towns to set up charter commissions and it authorizes the charter commission to put together town charters following certain patterns and then when the charter commission has done it's work, it hands the product to the voters and says,

the voters says up or down to approve this or not. The voters, if they approve it, as they have done in Derry. Presto you have a home rule charter and that's how it is incurred. My use of the phrase was intended, the contents that I have been speaking, to distinguish the home rule process of the charter headed for adoption. From the older process wherein the legislature passes a new charter for a municipality as a special law. Then it is required by our constitution the voters of the municipality get to vote up or down. The difference between a home rule charter and a legislative charter is that a home rule charter is generated *and* is subject to the general processes at the local level, whereas the legislative charter is enacted by the legislature and is subject to a referendum.

Question I am Representative Janet Conroy. Going back to the Laconia situation, I am not clear as to the school district meeting. Is it possible to have a city type government with a school district meeting? Answer: Yes, the city of Concord had one for years but then they had a separate school district which remains fiscally *autonomous* to this day. But prior to 1957, the city of Concord had a school district meeting with a final legislative to adopt the school budget. Mrs. Conroy: Before the money was allotted, you would have a city council type of government with a school district meeting which voted on the budget, but the final budget authority had to come back to the council for vote? Answer: Theoretically, but my guess is, that what you would do is provide in the city charter.

Question My name is Frank Sapareto. I am chairman of the Derry Taxpayers Association. I have a question to clarify, you mentioned about concerning Concord. Is it possible that the school district meeting could be used as information only while the budget *would* be handled solely by the approval from the town council? Answer: Yes. I think that is possible because as long as you have one final governing body which has the final authority you could have as many public hearings as you would like. Frank: The final say would have to be done by the majority. Answer: Well, the Laconia model had the city council as the final fiscal authority where the school district is concerned not a school district meeting. City council made the final vote.

Question: Also you mentioned to clarify the budget cap. The person asked whether or not to institute a budget cap into the charter. You seemed to be a little ambiguous on your answer. Is that possible, you say, *to* do through *an* ordinance in some towns? How strong is the ordinance? Is it possible to put in place? Answer: The ordinance is changeable by the next council. I would like to have the opportunity, if the commission tells me to do so, to look into the process by which Nashua adopted it's budget and provide the information before the end of the year. Nashua does not have a home rule charter and Nashua, I believe, *has a*

legislative charter and there a number of variations. It may be possible to put a tax cap on a home rule charter. I think the question that I got originally was proposition 2 1/2, that type of arrangement which is somewhat different.

Question by Frank: Actually my impression about the question that Mrs. Conroy brought up about the appointed officials of the city charter. Would it also be possible then that the school board members could be put under appointment by the town council as well? Answer: That's when you start to go beyond, for example, that's where you start in effect the non-fiscal decisions of the school district. You start to effect the structure of district governments rather than justifying fiscal decisions. All you are talking about is the final fiscal decision. We think the rational in combining your decision, is that you are simply substituting the inhabitants of the town, you are substituting for the inhabitants of the town, the delegates of the inhabitants of the town and that would be the city council. Otherwise you would leave the district administration and no precedent is set for that reaching that far. Question: With the authority of the school district? Answer: No, that's what's held up, I think, the analysis by other charters, who for some reason overlooked the Laconia case as you see in the memorandum and we can't see why the advice that other charter commissions got have never referred to that case. As far as we are concerned it is still a good law, but what held up the analysis before is that everybody simply assumed that you are somehow going to dissolve the school district and people started to grope for legal authority to allow the school district to be dissolved. In other words, you couldn't find any legal authority to do that. The authority that you are talking about is substituting the city council as the final fiscal authority for the inhabitants of the municipality previously acted through a school district meeting. That is a much simpler change. Question: In your opinion so far, if we follow the blueprints of Laconia, then under a city form of government that there is a precedent set, you most likely believe the Supreme Court would uphold that decision. Answer: My opinion is that there is a case that the Supreme Court has decided that we have not gone beneath. We have looked at it fairly closely but before we went further, we wanted to tell the commission about it and if the commission wanted us to pursue it further we can. We would get further information. But there is a precedent of unifying fiscal control under the home rule charter of the Laconia case. Frank: It is also your opinion that a similar authority exists under a town form of government as well. Or do you feel this case, I presume it is a local case, would not be precedent to warrant a decision like that under home rule by the Supreme Court? Answer: It is less clear that we could do this under a town council form of government. We can point to you the logic that says you can, but the Laconia case is

the Laconia case. So if you wanted to follow the very blueprints of that precedent you would adopt the city type of government.

Question Fred Tompkins: Does the special charter process restrict it in any way or curtail with the advent of the home rule process? Answer: I am having trouble with the question because, so let me answer it this way, the legislature can still connect special charters, but under the state constitution those special charters can not be imposed on the municipality without the municipality's consent. So all special charters enacted by the legislature have to be subject to local referendum before they can take effect. The state legislature and the state constitution can not alter the charter or form of government of any municipality without a referendum. In other words you could still get special charter authority from the state legislature, not withstanding the home rule legislation, but it still requires a referendum vote.

Fred: Would it be fair to say that a process could be constructed where the charter, that we propose, does various things among the transition procedures. As a suggestion, there is a procedure that says the public could vote on it and approve it to be sent to the legislature and passed by them and if it passed by them. it comes back to be voted upon? Answer: Theoretically you could do that. But bear in mind that the deadline for filing legislation for the 1996 session has already expired. So you would have to wait for the 1997 session to get in to the session.

Question Mr. Gill: I am still intrigued with this 141. I keep coming back to 141. I think that I heard Mr. Ambrose say that the council form of government was a town merging into a city and I think I heard you say that as well. I think you said that you could have come legitimacy for the town council form of government tying in the school system using the Laconia example. Now everybody would always like to second guess or second vote the politicians. Incorporating the 141 as part of 49D:1 which is the council form of government, so I guess what I am painting is the scenario that this charter commission might be legitimized in going with a town council form of government incorporating the school district and incorporating House Bill 141 where the final vote goes to the people to vote on at a ballot vote. Is that a scenario that makes some sense to you as a possible way to go? Answer: I can't point to any legal case that provides a precedent. The so called official ballot town council form of government is now one month old in effect July 8th. Nobody knows the troubles that may bring. Mike: It sounds like something that Derry wants to get involved with! Mr. Gross: You could run the logic for a proposition that says we are going to have a town council form of government and it says in the statute that

the town councils have all the authority as a city government and we go to a town council form of government. So there you have a town council form of government that captures the school district final fiscal decision, and then as the next step, once you got that, you could theoretically follow the 141 process and say all right now we are going to have an official ballot and we are going to take away from the town council its final fiscal authority and we are going to put that final fiscal authority in the hands of an official ballot vote. It is going to be one vote. So theoretically you could do that, but I can't tell you that you can do that. I can't tell you if there is any precedent if you follow that trail. But I can point out to you the logical process where under state stature is arguable.

Question Mr. Hopfgarten: Yes, I have a question and I admit that it is theoretical, but what I would like to get to, and it probably can not happen, but I am going to ask it anyway and I am going to ask your opinion on it. I want it so that, it is kind of following through on what Mike said basically what's the best, which way if any, can get us to where the citizens can vote on the entire dollar amount spent on this town at a ballot? Answer: So you are asking not to unify authority in the council but to unify authority at the voter level. It would be theoretically only. There is no way you can do it directly, because as long as you have the school district and a state statute that provides for separately adopting the official ballot method at the school district level, I know no way that you could directly unify those fiscal votes directly. In fact if you tried to do it, my guess is that your charter would be rejected by the Secretary of State or by the Attorney General, or by the DRA or somebody saying that there is provision in the state law ^{for 13100. nq} you to try to do that. The only way I can currently think of to get you there is in a two step process, that is where you have a fiscal authority unified on your town council form of government, which is theoretical, there is no precedent for that. The second step acting under the new statute would be ^{av} town council form that is fairly modified by an official ballot.

Bill Zolla: Further questions from the commission? Further questions from the public? Thank you, Marty. The commission is now prepared to take public input on aspect of the charter or any approach to the charter, if there is any.

Thank you Mr. Chairman, Frank Sapareto, Chairman of the Derry Taxpayers Association. I just want to bring up some concerns of the Taxpayers Association. Which is very similar to question proposed by Mr. Hopfgarten and that is that we would like to see more control and more input from the registered voters from this town. It appears to me that if we have meetings like the school district meeting that you are going to get the voices heard. I would like to see,

or the group would like to see the charter commission to be a pursuant avenue that would allow for most of the registered voters of this town to be heard. I am not sure whether that means that going to a city or going to a town. Personally I like the idea of remaining a town, keeping Derry as a town. Then again, I think it would be hard to argue as the *charter* has to say how the money is spent. I think that some, the way we have been asking questions here, is to see the way the charter commission is pursuing and that direction is probably the best interest for most of the voters of this town.

Bill: It is the ultimate responsibility, you realize, is for the people to come out and vote.

Frank: That's right.

Bill: Okay. Now we can't make it easy for them.. We can't but a button in their house. You can just present them the issues, but they have to come out and vote. Wouldn't it be wonderful if everything was like the '94 election, where 12,000 people in this town came out to vote. They were lined up in the morning at 8 o'clock and they were still lines when we closed at 8 at night.

Frank: I agree. So I think if we have important issues, such as the tax issue in town here, it would help to wake some of these sleeping voters up. If we do have to inform the voters, we will. My only real objection is that many people in town may have to take a Saturday off to go and talk where the bulk of their money is spent. It is very difficult leave their jobs in order to do that and I feel that the way the charter commission is going you might be solving that.

Bill: Thank you. Anyone else, Mr. Gleason and then we'll take. I can't see the person down on the left. Oh, yes, Mrs. Robie.

Mr. Gleason: Following the previous gentleman's comments, is the commission considering or looking into the possibility of the representative form of town government with elected town representatives which, quite logically, would reduce the number of participants at a voting meeting. Is that something the commission is looking into or will look into? Modelled rather similarly after some towns in Massachusetts, I am not sure there is a body set up in New Hampshire yet for representative form of a town government.

Bill: The answer to your question is yes. We will be discussing all aspects of government and representation. Mrs. Robie.

Mrs. Robie: I have asked this commission before, if an ethics committee and a conflict of interest committee could be instituted in the charter. I would like to take that one step further, if that would happen, if members of those committees could be just ordinary citizens with no agenda, no elected officials, no appointments just an ordinary citizen that does not have an agenda and is not on any other committee because they have the time.

Bill: Question from the commission. You are talking about the conflict of interest ordinance really, I think that is what you are talking about. Membership, of which, would be part of the ordinance. I am not sure whether that would come under the charter or not, but we will certainly discuss it. Because you have attended every meeting and you have now mentioned it twice and I am sure if we don't discuss it you will be here again. We thank you for that. We appreciate that you have come to every meeting. We will be discussing ethics.

Before we adjourn I would like to remind each member to take a copy of the data committees findings to date and be prepared to discuss it at our next meeting.

Mr. Dowd: Could I just request, Bill, that our discussions by our guests tonight be typed verbatim on the minutes.

Bill: Be verbatim.

Jack: In other words the entire text.

Bill: Why don't you make that a motion.

Jack made the motion and it was seconded by Paul. Motion has been made and seconded that our guests comments tonight be verbatim. I'll poll the board, Mr. Dowd, yes; Mr. Hopfgarten, yes; Mrs. Hopfgarten, yes; Mr. Feinauer, I don't have to do it; Mr. Tompkins, no; Mr. Benson, yes; Mr. Gill, yes; and the chair votes yes. Roy, we had one no. Mike--we assume that the minutes will be sent to these guys too. Roy; I am going to abstain.

Bill: I would like to thank Mr. Ambrose and Mr. Gross. It was really a very interesting meeting. I would like to thank you for coming out tonight and for the work you have done. I would also like to advise the commission it is my intention to give a copy of this to Dave, down at the school board, so that he can take a look at it and I think somewhere along the line I would like to see the commission sit down with the school board and discuss some of these things rather than have a lopsided discussion with the commission's perspective only. That may not be necessary either. We are going to start discussing at our next meeting the form of government that we want, which direction

we want to take and what form of government, the commission thinks the town should have. It may very well turn out that it may not require any charter revisions at all and we keep the same charter that we have right now. I doubt that, I wouldn't bet on that, but we may come to something close to that or we may completely revert to a city. I don't know. But at any rate I am going to get a copy of this to Dave Jack, I'll have it down to him in the morning, so for anybody that is interested in reading it, it can be distributed there or you will have it in the file up at the Town Hall and you are welcome to get a copy. Anything else to come before the commission?

Mr. Hopfgarten: Yes, Mr. Chairman, I just wanted to get a clarification on what we plan to get accomplished at next week's meeting, are we going to make, a beginning decision on where we are going with the charter?

Bill: That is what's on the agenda. To discuss the form of government, it will take a lot of debate. We have the mechanism down for motions and approvals and it will take a lot of debate and that's where we start next week. Public input has ended although you are welcome to come to our meetings. It is now time for us to propose a charter or not propose a charter whatever the case will be.

Mr. Gross: When would you next like me to attend?

Bill: I think as soon as the commission has a direction. I'll keep you advised or Roy will keep you advised. I think we have to agree on a direction before we can ask any further legal advise. Should we think about a city as we see it tonight and we will have to investigate the case of Laconia. If we go to a town I am sure we will have question on 141.

Meeting was adjourned at 8:45 p.m.

R.F./C.G.

cc min #7.

DERRY CHARTER COMMISSION
MEETING

July 31, 1995 at TOWN HALL

Members Present:

Grant Benson

Jack Dowd

Roy Feinauer

Mike Gill

Fred Tompkins excused

Paul Hopfgarten

Sandra Hopfgarten

James Lupien

William Zolla

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of the July 24th meeting with the correction of the spelling of council on page two and adding Franklin also having a budget cap was made by Mike Gill and seconded by Sandra Hopfgarten. Vote was unanimous.

Chairman's Report

The Chairman gave a copy of a letter dated 1984 from the law office of Lewis Soule based on research by Barbara Loughman, as to whether the Charter Commission can incorporate into a city form of government the school district. Bill has forwarded a copy of this letter originally sent to David Brown as well as a letter to Rodney Bartlett dated Feb. 22, 1989 to Martin Gross for his analysis.

Committee Reports

Data Committee Report - Mike Gill had no report at this time. He is still waiting for four more replies.

Meeting was recessed for fifteen minutes.

John Langone was suppose to arrange a meeting with the Strategic Planning Commission.

Mike Gill requested that all the meetings be held at the Town Hall because of poor audio at Hood Library. The reason for the poor audio was only one microphone was set up.

The Chairman proposed that if any motion is going to pass on the charter that a minimum of five votes be required. Also on a motion to reconsider, he would like to have a two thirds vote or six members. Mr. Hopfgarten's understanding on the reconsideration is that someone who voted in the affirmative may be the only person who can propose a vote to reconsider. So if a person did not attend a meeting, they could not move for a reconsideration at the next meeting. The Chairman stated that this was correct.

Mike Gill stated that one councilor can raise a charter objection, and asked Bill "Are you going to allow us to

SEBRY CHARTER COMMISSION
MEETING

July 21, 1995 AT TOWN HALL

Members Present:
Grant Benson
Jack Bond
Roy Fennell
Mike Gill
Fred Loukins
Barbara Houghton
James Lechin
William Tolia

William Tolia called the meeting to order at 7:00 p.m.

A motion to accept the minutes of the July 24th meeting with the correction of the spelling of Council on page two and adding Franklin after having a budget was made by Mike Gill and seconded by Barbara Houghton. Vote was unanimous.

Chairman's Report

The Chairman gave a copy of a letter dated 1984 from the law office of Lewis & Goetz based on research by Barbara Loughman, as to whether the Charter Commission can incorporate into city form of government the school district. Bill has forwarded a copy of this letter originally sent to David Brown as well as a letter to Rodney Barlett dated Feb. 22, 1987 to Martin Gross for his analysis.

Committee Reports

Data Committee Report - Mike Gill had no report at this time. He is still waiting for four more replies.

Meeting was recessed for fifteen minutes.

John Langone was supposed to arrange a meeting with the Strategic Planning Commission.

Mike Gill requested that all the meetings be held at the Town Hall because of poor audio at Hood Library. The reason for the poor audio was only one microphone was set up.

The Chairman proposed that if any motion is going to pass on the charter that a minimum of five votes be required. Also on a motion to reconsider, he would like to have a two-thirds vote or six members. Mr. Houghton's understanding on the reconsideration is that someone who voted in the affirmative may be the only person who can propose a vote to reconsider. So if a person did not attend a meeting, they could not move for a reconsideration at the next meeting. The Chairman stated that this was correct.

Mike Gill stated that one objection can raise a charter objection. and asked Bill how you going to allow us to

raise a charter objection and table it to the next meeting?" Mike Gill made a motion in affect, that no single individual could table something to a later meeting just for the purpose of delaying a vote. A discussion followed on tabling a vote. Jack Dowd seconded. All in favor except Paul Hopfgarten.

Jack Dowd asked if the meeting agendas could be tightened up a bit. Bill said the August 7th meeting is with the Secretary of State, August 14th we are going to ask to agree on what changes should be made and how they should be implemented. Jack feels that there are many different charters to review. and feels that it would be beneficial for the commissioners to review the different types of charters. Roy will give copies of Portsmouth, Keene, Hooksett and Hudson's charters for the commissioners review. But stated that Hudson's is not in affect any more, they have gone back to a selectman form of government.

No one was present to represent the Strategic Planning Commission, but Dave Nelson, who was in the audience and a member, was requested to see if they could possibly draft some kind of a report and send it to us. However Dave believes that the first formal presentation of the report will be August 8th at the Town Council/School Board Meeting. He will give out copies after it is made public. Mike Gill asked for information on the ten subject matters that the Strategic Planning Commission were looking into. The ten components were community information sharing, community vision and pride, civic education, citizen participation, community leadership, cooperation and consensus building, regional cooperation, inter-group relation, volunteerism and philanthropy and government performance.

Mrs. Robie would like the commission to consider an ethics and conflict of interest committees be included in the charter. She feels that there are a lot of the same people on the different committees in the town and she would like to see more people participating on these committees. Paul mentioned that there are openings on the planning, zoning and conservation commissions right now. He urges the citizens to fill these openings.

Next meeting will be at the Library at 7:00 with the Secretary of State and Martin Gross.

Meeting was adjourned at 7:50 p.m.

R.F./C.G.

cc min #6

raise a charter objection and table it to the next meeting. Mrs. Gill made a motion in effect, that no single individual could table something to a later meeting just for the purpose of delaying a vote. A discussion followed on tabling a vote. Jack Down seconded. All in favor except Paul Hopfinger.

Jack Down asked if the meeting agendas could be tightened up a bit. Bill said the August 27th meeting is with the Secretary of State. August 14th we are going to ask to agree on what changes should be made and how they should be implemented. Jack feels that there are many different charters to review. And feels that it would be beneficial for the commissioners to review the different types of charters. Roy will give copies of Portsmouth, Keene, Hooksett and Hudson's charters for the commissioners review. But stated that Hudson's is not in effect any more. They have gone back to a selectman form of government.

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Next meeting will be at the library at 7:00 with the Secretary of State and Martin Bros.

Meeting was adjourned at 7:50 p.m.

R.F.V.B.
cc min 25

DERRY CHARTER COMMISSION
MEETING

July 24, 1995 at HOOD SCHOOL LIBRARY

Members Present:

Grant Benson	Paul Hopfgarten	Fred Tompkins
Jack Dowd	Sandra Hopfgarten	
Roy Feinauer	James Lupien	
Mike Gill	William Zolla	

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of the July 17th meeting with a change to the time of adjournment to 8:10 p.m. was made. by Paul Hopfgarten and seconded by Grant Benson. Vote was unanimous.

Chairman's Report

Bill Zolla reported that he received a letter from Martin Gross with a revised copy of state laws RSA 49B, C, and D along with the changes in the new ballot voting. Mr. Gross expressed the desire to be present at the August 7th meeting with the Secretary of State.

Committee Reports

Mike Gill reported that he has received ten surveys with six more to come. If he doesn't receive any more within the next two weeks, he will go with what he has. He will give copies of these surveys to Paul and Jack for their review.

Meeting was recessed for fifteen minutes.

The guest speaker Mr. Andrews, Executive Director of the N. H. Municipal Association, handed out copies of the revised RSA 49B with the new ballot law, a copy of the Official Ballot Action Bulletin, and a copy of advantages and disadvantages of various forms of government. Chairmans' packet also includes a copy of Rochester Charter Commission report and the Hooksett Charter Commission report. Rochester went from a full time mayor to council manager form of government. Hooksett has a town council with a budgetary meeting form of government.

Mr. Andrews gave a brief history of the legislatives actions of the Home Rule by towns. Previously the legislators took action on how towns were run without consulting with the towns. They believed towns didn't need a charter as the cities were required to have. The Secretary of State never fully approved of the Home Rule of Towns. There are 13 cities in New Hampshire and 221 towns. Out of the 13 cities two have full time mayors with boards of aldermen (Manchester and Nashua). Nashua had a

DEBBY CHARTER COMMISSION
MEETING

July 24, 1992 at HOOD SCHOOL LIBRARY

Members Present:

Paul Houghton	Brant Benson
Sandra Houghton	Jack Dowd
James Lupton	Roy Finner
William Jolia	Mike Gill

Fred Tompkins

William Jolia called the meeting to order at 7:00 p.m.

A motion to accept the minutes of the July 17th meeting with a change to the time of adjournment to 8:10 p.m. was made, seconded by Paul Houghton and seconded by Brant Benson. Vote was unanimous.

Chairman's Report

Bill Jolia reported that he received a letter from Martin Gross with a revised copy of state laws RSA 49B, C, and D along with the changes in the new ballot voting. Mr. Gross expressed the desire to be present at the August 7th meeting with the Secretary of State.

Committee Reports

Mike Gill reported that he has received ten surveys with six more to come. It doesn't receive any more within the next two weeks, he will go with what he has. He will give copies of these surveys to Paul and Jack for their review.

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The guest speaker Mr. Andrews, Executive Director of the N. H. Municipal Association, handed out copies of the revised RSA 49B with the new ballot law, a copy of the Official Ballot Action Bulletin, and a copy of advantages and disadvantages of various forms of government. Chairman's report also included a copy of Rochester Charter Commission report and the Rochester Charter Commission report. Rochester went from a full time mayor to council manager form of government. Rochester has a town council with a budgetary meeting form of government.

Mr. Andrews gave a brief history of the legislative actions of the Home Rule by towns. Previously the legislators took action on how towns were run without consulting with the towns. They believed towns didn't need a charter as the cities were required to have. The Secretary of State never fully approved of the Home Rule of towns. There are 12 cities in New Hampshire and 221 towns. Out of the 12 cities two have full time mayors with boards of aldermen (Manchester and Nashua). Nashua had a

consultant study done and one of the recommendations was for them to go to a city council with a city manager. 49D Town forms of Government -- Town Council with Town Manager/Administrator which is what Durham and Derry have with no town meeting. -- Town Council and Budgetary Town meeting which Hooksett and Bedford have and Representative Town Meeting option -- there is no community in New Hampshire that has this form of government. Mr. Andrews advised he had received questions from Derry revolving around the idea of changing from a town to a city, the school district coordinating their budget with that of the town. The third question - the official ballot issue? He believes that we have to remain a town to implement that. He doesn't think it was provided for as an option for a city. Is there any advantage to being a city as opposed to a town? He can't think of any at present. He thinks there is a little less hassle being a city than a town and at times, at least in the past, it appears they got money easier than a town did. Mr. Andrews likes the town council idea. The Town Council form lets you call it a town but gives a legislator structure. Town Council has all the powers a City Council has. Out of the 13 cities, Concord has an independent school district. Keene, Claremont and Lebanon have school district meetings. All the other cities (Nashua, Franklin, Laconia, Somersworth, Dover, Rochester, Portsmouth and Manchester) have the city council or board of aldermen act on the bottom line of the school budget and they also approve all contracts. Berlin's school board is appointed by the city council, in all other places they are elected. Mr. Andrews believes that an attorney for the Derry School District has stated that you couldn't, even if you became a city, bring the school into the city charter structure as a department without an act of the legislature. Mr. Andrews did some research and he couldn't find anything that would support that. Roy asked him the question about what the impact would be on how representatives were elected. Mr. Andrews felt that it shouldn't have any impact on how the representatives are elected. It is up to the legislature to determine the legislative districts and not the towns.

Question:

About dissolving a school district?. He thinks that you need a nominal school district meeting to dissolve the school district and then a meeting to accept the charter.

Fred Tompkins advised that he had information about the legal problem of schools coming under city jurisdiction.

Franklin &

Nashua has a budget caps in place and is there anything in the laws that tells how you can adopt a budget cap. No.

Mike Gill asked how House Bill 141 pertained to representative town meeting as it did not seem to be

consultant study done and one of the recommendations was for them to go to a city council with a city manager. 499 Town form of Government -- Town Council with Town Manager/Administrator which is what Durham and Derry have with no town meeting. -- Town Council and Budgetary Town meeting which Hooksett and Bedford have and Representative Town Meeting option -- there is no community in New Hampshire that has this form of government. Mr. Andrews advised he had received questions from Derry revolving around the idea of changing from a town to a city, the school district coordinating their budget with that of the town. The third question -- the official ballot issue? He believes that we have to remain a town to implement that. He doesn't think it was provided for as an option for a city. Is there any advantage to being a city as opposed to a town? He can't think of any at present. He thinks there is a little less hassle being a city than a town and at times, at least in the past, it appears they got money faster than a town did. Mr. Andrews likes the town council idea. The Town Council form lets you call it a town but gives a legal structure. Town Council has all the powers a City Council has. Out of the 12 cities, Concord has an independent school district. Keene, Claremont and Lebanon have school district meetings. All the other cities (Nashua, Franklin, Laconia, Somersworth, Dover, Rochester, Portsmouth and Manchester) have the city council or board of aldermen act on the bottom line of the school budget and they also approve all contracts. Berlin's school board is appointed by the city council. In all other places they are elected. Mr. Andrews believes that an attorney for the Derry School District has stated that you couldn't, even if you became a city, bring the school into the city charter structure as a department without an act of the legislature. Mr. Andrews did some research and he couldn't find anything that would support that. Roy asked him the question about what the impact would be on how representatives were elected. Mr. Andrews felt that it shouldn't have any impact on how the representatives are elected. It is up to the legislature to determine the legislative districts and not the towns.

Question:
About dissolving a school district? He thinks that you need a nominal school district meeting to dissolve the school district and then a meeting to accept the charter.

Fred Tompkins advised that he had information about the legal problem of schools coming under city jurisdiction. Nashua has a budget cap in place and is there anything in the laws that tells how you can adopt a budget cap. No.

Mike Gill asked how House Bill 141 pertained to representative town meeting as it did not seem to be

covered. Mr. Andrews does not know if it was a typo or oversight. Mr. Gill also questioned 49B in regards to the school district and HB 141. Mr. Andrews does not know the answer.

Jack Dowd asked if we would go to a city, is it possible to have all your representatives elected at large from one district? Mr. Andrews stated in a recent conversation with our attorney, Mr. Gross, he advised that this was something the legislature decided. It is a state decision to make and not the town.

Meeting adjourned at 8:34 p.m.

R.F./C.G.

cc min #5

Committee Reports

Nike sent a questionnaire to Mass. and all towns with populations close to Derry's asking six questions. They were the types of government, taxation, school system, municipal finance, public safety and housing and construction. He received Derry's reply and hopefully the rest will be in by the next meeting. Official name of the committee is Comparable Data Committee.

Roy stated that the meeting on the 24th with Andrews will be held at Hood School Library and will be taped but not necessarily live. July 31st meeting on the strategic planning will be held at the Town Hall, and Deputy Secretary of State at the Public Library on August 7th.

covered. Mr. Andrews does not know if it was a typo or
overstated. Mr. Gill also questioned 49B in regards to the
school district and HB 141. Mr. Andrews does not know the
answer.

Jack Bond asked if we would go to a city, is it possible to
have all your representatives elected at large from one
district? Mr. Andrews stated in a recent conversation with
our attorney, Mr. Gross, he advised that this was something
the legislature decided. It is a state decision to make and
not the town.

Meeting adjourned at 6:15 p.m.

R.F.C.B.

cc min 53

DERRY CHARTER COMMISSION
MEETING

July 17, 1995 at TOWN HALL

Members Present:

Grant Benson Paul Hopfgarten
Jack Dowd Sandra Hopfgarten
Roy Feinauer James Lupien
Mike Gill William Zolla

Absent:

Fred Tompkins

William Zolla called the meeting to order at approximately 7:15 p.m.

A motion was made to accept the minutes of the June 26th meeting. It was moved by Mike Gill and seconded by Paul Hopfgarten. Vote was unanimous.

Chairmans Report- Mike Gill took it upon himself, as a sub-committee, to request towns in New Hampshire and Massachusetts to send data on expenditures and revenues. Bill has asked Jack Dowd and Paul Hopfgarten to look the information over. The Chairman and Roy have approved some minor expenses. Bill has talked to members of the education community and asked them to come in and give us their views as to what they wanted in a charter. A letter was sent to Martin Gross engaging him as counsel for the Derry Charter Commission. Mr. Gross was asked his opinion in regards to - "Can a single vote by the electorate for a City Charter incorporate the existing School District into that Charter at the same time?" Mr. Gross responded with a copy of the new law which took effect July 8th, 1995. -Official Ballot Town Meeting : The Charter Option, but doesn't feel it is useful in getting at the central issue that Bill questioned him on. Bill didn't mean his question to be the solution only a question. There will be correspondence file set up at the Town Hall for everyone's convenience.

Committee Reports

Mike sent a questionnaire to Mass. and NH towns with populations close to Derry's asking six questions. They were the types of government, taxation, school system, municipal finance, public safety and housing and construction. He received Derry's reply and hopefully the rest will be in by the next meeting. Official name of the committee is Comparable Data Committee.

Roy stated that the meeting on the 24th with Andrews will be held at Hood School Library and will be taped but not necessarily live. July 31st meeting on the strategic planning will be held at the Town Hall. and Deputy Secretary of State at the Public Library on August 7th.

DERBY CHARTER COMMISSION MEETING

July 17, 1995 at TOWN HALL

Present:
Fred Tompkins

Paul Houghton
Barbara Houghton
James L. Leger
William J. Leger

Members Present:
Grant Benson
Jack Dowd
Roy Fennell
Mike Gill

William J. Leger called the meeting to order at approximately 7:15 p.m.

A motion was made to accept the minutes of the June 28th meeting. It was moved by Mike Gill and seconded by Paul Houghton. Vote was unanimous.

Chairman Report: Mike Gill took it upon himself, as a sub-committee, to request towns in New Hampshire and Massachusetts to send data on expenditures and revenues. Bill has asked Jack Dowd and Paul Houghton to look the information over. The Chairman and Roy have approved some minor expenses. Bill has talked to members of the education community and asked them to come in and give us their views as to what they wanted in a charter. A letter was sent to Martin Gross regarding his as counsel for the Derby Charter Commission. Mr. Gross has asked his opinion in regards to - "Can a single vote by the electorate for a City Charter incorporate the existing School District into that Charter at the same time?" Mr. Gross responded with a copy of the new law which took effect July 8th, 1995. Official Ballot Town Meeting: The Charter Option, but doesn't feel it is useful in getting at the central issue that Bill questioned his on. Bill didn't mean his question to be the solution only a question. There will be correspondence file set up at the Town Hall for everyone's convenience.

Committee Reports

Mike sent a questionnaire to Mass. and NH towns with population close to Derby's asking six questions. They were the types of government, taxation, school system, municipal finance, public safety and housing and construction. He received Derby's reply and hopefully the rest will be in by the next meeting. Official name of the committee is Comparable Data Committee.

Roy stated that the meeting on the 24th with Andrews will be held at Hadd School Library and will be taped but not necessarily live. July 21st meeting on the strategic planning will be held at the Town Hall. and Deputy Secretary of State at the Public Library on August 7th.

What changes would you like to see - what are your visions?

Mike Gill - He feels that we should have a representative form of government. - Either a town or a city form of government. He feels that Derry is too large for an open town meeting type of vote. If a city nine councilors or alderman (three voted each year). They would have the say on how to run the community. If we go to a Town form of government, we should consider representative form of town meeting, Elect 200-300 people that would vote the bottom line and should incorporate HP 141 option to vote on warrant articles.

Jack Dowd - He feels that we need a stable form of government that will last more than a few years.

Sandy - She would like to see a representative form of government. She would prefer to be a town because of the ballot law, but would consider a city type of government. The people have to understand that they are in charge of this town.

Paul - He feels that the people should have maximum access to their government. People would like to remove the intimidation.

Roy - He feels that we need stabilization. a form of government that will be around a long time.. He would like to stay with the same type of government we have now, hopefully the school and town could get together some way..

Bill - He would like to eliminate the polarization between political groups and to stabilize the tax rate.

Grant - He believes in the Ballot Law. He would like to stay with the same form of government we now have, cites his experiences with budget committees which kept costs down..

Jim - He feels that the government should be open to the people. He feels that a town form of government is more open to the people than a city, but is interested in what the attorney's response will be to the Chairman's letter and advantages of being a city.

Mrs. Robie - If your councilor doesn't have the same point of view, they don't answer your questions. It isn't fair. She feels that there should be two councilors from each district.

Bill - He feels that there should be three councilors per district.

There was a discussion on how many ^{STATE} representatives there should be. If a city form of government, should there be a

What changes would you like to see - what are your visions?

Mike Bill - He feels that we should have a representative form of government. - Either a town or a city form of government. He feels that Berry is too large for an open town meeting type of vote. It's a city nine councilors or alderman (three voted each year). They would have the say on how to run the community. If we go to a town form of government, we should consider representative form of town meeting. Elect 200-300 people that would vote the bottom line and should incorporate Mr. Lal's opinion to vote on warrant articles.

Jack Dowd - He feels that we need a stable form of government that will last more than a few years.

Sandy - She would like to see a representative form of government. She would prefer to be a town because of the ballot law, but would consider a city type of government. The people have to understand that they are in charge of this town.

Raul - He feels that the people should have maximum access to their government. People would like to remove the intimidation.

Roy - He feels that we need stabilization, a form of government that will be around a long time. He would like to stay with the same type of government we have now, hopefully the school and town could get together some way.

Bill - He would like to eliminate the polarization between political groups and to stabilize the tax rate.

Grant - He believes in the Ballot Law. He would like to stay with the same form of government we now have, cites his experiences with budget committees which kept costs down.

Jim - He feels that the government should be open to the people. He feels that a town form of government is more open to the people than a city, but is interested in what the attorney's response will be to the Chairman's letter and advantages of being a city.

Mrs. Rubie - If your councilor doesn't have the same point of view, they don't answer your questions. It isn't fair. She feels that there should be two councilors from each district.

Bill - He feels that there should be three councilors per district.

There was a discussion as to how many representatives there should be. If a city form of government, should there be a

representative from each ward? Can there be representatives at large? This should be clarified.

Meeting was adjourned at 9:10 p.m.

R.F./Cathy Goldthwaite

cc min. #4

A motion to accept the minutes of the June 5th meeting was made by Grant Hanson with the correction on page two to change the word "except" to "excepted", seconded by Paul Hoffgartner. Voted unanimously to accept. A motion was made to Mike Gill to accept the minutes of the June 12th meeting, seconded by Jack Dowd. Voted unanimously to accept.

Mike Gill stated to know how many hours the lawyer worked for the last Charter Commission. Roy Feinauer stated that he worked 20 1/2 hours and he was paid at the time \$150. an hour. Mike Gill said that was a good deal more. Bill made a motion to engage the services of legal counsel to the Charter Commission Attorney Martin L. Gross. Seconded by Jack Dowd. Voted unanimously to accept.

Bill Zolla stated that the Town Administrator has opened up accounts for the Charter Commission and advised that for legal and the other miscellaneous Charter expenses. Bill also stated that we have been advised that following a procedure for the public notification of meetings and also how bills are to be submitted for payment.

Fred Thompson read the present charter section 10.6 which refers to public meeting notifications and moved we accept to change the 48 hour notification to each member. Jack Dowd seconded. *motion failed 18-10-6A*

Roy Feinauer read RSA 49B:4, which states that notice is to be published in a local newspaper at least 7 days before a public meeting.

It was agreed that a vote should be taken in revising the 48 hour requirement. Mike Gill seconded it and vote taken in favor.

A Commission Agenda was presented by the Chairman who advised that John Andrews would be the speaker on July 24th and a speaker from the Strategic Planning Committee on July 31. Fred Thompson moved to accept the agenda but change date of Sept. 24th to Sept. 27th. Seconded by Jack Dowd and accepted.

representative from each ward? Can there be representatives
of large? This should be clarified.

Meeting was adjourned at 9:10 p.m.

R. F. O'Shea, Goldsworthy

cc min. 84

DERRY CHARTER COMMISSION MEETING

June 26, 1995 at TOWN HALL

Members present:

Grant Benson
Jack Dowd
Roy Feinauer
Mike Gill

Paul Hopfgarten
Sandra Hopfgarten
James Lupien
Fred Tompkins
William Zolla

William Zolla called the meeting to order at 7:00 p.m.

A motion to accept the minutes of the June 8th meeting was made by Grant Benson with the correction on page two to change the word engage to contact, seconded by Paul Hopfgarten. Voted unanimously to accept. A motion was made by Mike Gill to accept the minutes of the June 19th meeting, seconded by Jack Dowd. Voted unanimously to accept.

Mike Gill wanted to know how many hours the lawyer worked for the last Charter Commission. Roy Feinauer stated that he worked 73 3/4 hours and he charged at the time \$150. an hour. Gill felt that was a reasonable rate. Gill made a motion to engage the services of legal counsel to the Charter Commission Attorney Martin L. Gross. Seconded by Jack Dowd. Vote was unanimous.

Bill Zolla advised that the Town Administrator has opened up accounts for the Charter Commission in two areas.-- One for legal and the other miscellaneous Charter expenses. Bill also stated that we have been advised about following a procedure for the public notification of meetings and also how bills are to be submitted for payment.

Fred Tompkins read the present charter section 10.6^A which refers to agenda, meeting notifications etc. and moved we accept to waive the 48 hour notification to each member. Jack Dowd seconded. *motion voted 48 hr. advance - 10.6^A*

Roy Feinauer read RSA 49B:4,V which states that notice is to be published in a local newspaper at least 7 days before a public meeting.

It was agreed that a vote should be taken in waiving the 48 hour requirement. Mike Gill seconded it and vote taken in favor.

A Commission Agenda was presented by the Chairman who advised that John Andrews would be the speaker on July 24th and a speaker from the Strategic Planning Committee on July 31. Fred Tompkins moved we accept the agenda but change date of Sept. 24th to Sept. 25th. Seconded by Jack Dowd and so voted.

DERRY CHARTER COMMISSION
MEETING

June 26, 1995 at Town Hall

Members present:

Grant Benson
Jack Dowd
Roy Fennauer
Mike Gill
Fred Tomkins
William Jolia
Paul Hopfinger
Sandra Hopfinger
James Lugin

William Jolia called the meeting to order at 7:00 p.m.

A motion to accept the minutes of the June 8th meeting was made by Grant Benson with the correction on page two to change the word "engage" to "contact", seconded by Paul Hopfinger. Voted unanimously to accept. A motion was made by Mike Gill to accept the minutes of the June 19th meeting, seconded by Jack Dowd. Voted unanimously to accept.

Mike Gill wanted to know how many hours the lawyer worked for the last Charter Commission. Roy Fennauer stated that he worked 75 1/2 hours and he charged at the time \$150 an hour. Gill felt that was a reasonable rate. Gill made a motion to engage the services of legal counsel to the Charter Commission Attorney Martin L. Gross. Seconded by Jack Dowd. Vote was unanimous.

Gill Jolia advised that the Town Administrator has opened up accounts for the Charter Commission in two areas. One for legal and the other miscellaneous Charter expenses. Gill also stated that we have been advised about following a procedure for the public notification of meetings and also how bills are to be submitted for payment.

Fred Tomkins read the present charter section 10.6 which refers to agenda, meeting notifications etc. and moved we accept to have the 48 hour notification to each member. Jack Dowd seconded. Motion Voted 10-0.

Roy Fennauer read RSA 49B:1, V which states that notice is to be published in a local newspaper at least 7 days before a public meeting.

It was agreed that a vote should be taken in waiving the 48 hour requirement. Mike Gill seconded it and vote taken in favor.

A Commission agenda was presented by the Chairman who advised that John Andrews would be the speaker on July 24th and a speaker from the Strategic Planning Committee on July 31. Fred Tomkins moved we accept the agenda but change date of Sept. 24th to Sept. 25th. Seconded by Jack Dowd and vote taken.

A discussion evolved about another public meeting. Paul Hopfgarten wants the Secretary of State to speak. A general discussion took place on having another public meeting giving information on various types of governments that are now available.

Roy Feinauer proposed Robert Ambrose, Assistant Secretary of State be invited to speak on August 7th. Mike Gill seconded. So voted.

Fred Tompkins moved to amend the agenda of August 7th, seconded by Jack Dowd. So voted.

Bill Zolla has an invoice for \$47.40 for notebooks. Seconded by Mr. Dowd. Voted unanimously to accept.

Bill Zolla received a resume from a person who has a computer and secretarial background, and is willing to work for the same amount as before. Mike Gill made a motion to use the secretaries at the Town Hall to transcribe the minutes to save the taxpayers money. The motion was not seconded. Roy made a motion that we hire Cathy Goldthwaite at \$10.00 and that she will work with me in making the notes of the minutes plus she will do work required as we develop our concept of the new charter. She will also type those up as needed, and will prepare the information to go to our lawyer. Jack Dowd seconded. Any discussion. 6 in favor Jim Lupien and Mike Gill opposed and Fred Tompkins abstained.

General Discussion-

Mike Gill presented a list of cities and towns in Massachusetts, New Hampshire, Vermont and Maine to show that many places especially in Massachusetts had population exceeding Derry but still were towns. Population is not a criteria for deciding whether it should be a city or a town. Fred didn't think a change would be of any benefit unless the schools could become a part of the municipality.

Mr. Zolla wants to know do we need a change and how we feel about it.

Mike - sees only three directions that we can go. 1 Town form of government 2 Council form of government 3 City form of government.

Jim ^{He} hears over and over again ^{there should be} one form of government. The school and counsel to work together and become one entity.

Fred Tompkins - would like to investigate the idea of combining everything into one but he is afraid it is doomed

A discussion evolved about another public meeting. Paul
Hogarty wants the Secretary of State to speak. A general
discussion took place on having another public meeting
giving information on various types of government that are
now available.

Roy Farnsworth proposed Robert Anderson, Assistant Secretary of
State be invited to speak on August 7th. Mike Gill
seconded. So voted.

Fred Tompkins moved to amend the agenda of August 7th.
Seconded by Jack Bond. So voted.

Bill Lolla has an invoice for \$47.40 for notepaper.
Seconded by Mr. Bond. Voted unanimously to accept.

Bill Lolla received a resume from a person who has a
computer and electrical background, and is willing to work
for the same amount as before. Mike Gill made a motion to
use the secretary at the Town Hall to transcribe the
minutes to save the taxpayer's money. The motion was not
seconded. Roy made a motion that we hire Cathy Goldswaiter
at \$10.00 and that she will work with me in making the notes
of the minutes plus she will do work requested as we develop
our concept of the new charter. She will also type those up
as needed, and will prepare the information to go to our
lawyer. Jack Bond seconded. Any discussion. A in favor
Jim Lugin and Mike Gill seconded and Fred Tompkins
abstained.

General Discussion

Mike Gill presented a list of cities and towns in
Massachusetts, New Hampshire, Vermont and Maine to show
that many places especially in Massachusetts had population
exceeding Perry but still were towns. Population is not a
criteria for deciding whether it should be a city or a town.
Fred didn't think a change would be of any benefit unless
the schools could become a part of the municipality.

Mr. Lolla wants to know if we need a change and how we feel
about it.

Mike - sees only three directions that we can go. 1 Town
form of government 2 Council form of government 3 City form
of government.

Jim Lugin over and over again one form of government.
The school and council to work together and become one

Fred Tompkins - would like to investigate the idea of
combining everything into one but he is afraid it is doomed

to failure. Would like to take the best from all and would change into a city.

Sandy - idea of combining the two bodies town and school sounds great in theory. City kind of government only way to bring the schools under a municipal kind of control but is incompatible with the ballot box voting. Public wants to combine the two types of government, but also wants the right to vote on the budget.

Grant - feels that city representation isn't just what he wants to see. He wants the right to vote. A Municipal Budget Committee is good. Has mixed emotions.

Roy - feels the town council, strong administrator is a better type of government. Possibly to bring schools in for budgetary purposes. Told that as a city the school can receive more from the government than from being a town.

Paul - we definitely need a change. In an ideal world, I would like to combine the school and the municipality. Leery of a city form of government, doesn't think it is as close to the people as a town form of government. Wants the strongest person in town to be an elected person. Doesn't like the idea of an appointed person being in the position of the greatest power. Agrees in checks and balances.

Jack - thinks very early to make a change. 3 types of governments. Hundreds of variations. Likes a city form of government. Investigate having schools under a city form of government.

Bill - There are many budgets, school, town, and Pinkerton call for ~~confirmation~~ ^{confrontation} of views and people get angry at each other when they should direct their anger at the people responsible for the budget. -A mayor, administrator or whomever they elected. The form of government will not lower taxes, but should help in stabilizing them.

Fred's observation is fundamental, no substitution for knowledge. Difficulty is that most of the people in the community doesn't know how the community functions. First Charter got passed because everything had to wait for the town meeting to vote on it. ~~Don't~~ Just give authority, unless you can have the responsibility for what you have authority over. Opposed to idea of voting for everything.

May Casten - Administrative - council form of government with a budget committee.

Mr. Gill - One thing that keeps bothering him. Derry's gone through a drastic population increase. Some Massachusetts towns are the same size as ours but are still towns and they seem okay.

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Bandy - idea of combining the two bodies town and school sounds great in theory. City kind of government only way to bring the schools under a municipal kind of control but is incompatible with the ballot box voting. Public wants to combine the two types of government, but also wants the right to vote on the budget.

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Roy - feels the town council, strong administrator is a better type of government. Possibly to bring schools in for budgetary purposes. Told that as a city the school can receive more from the government than from being a town.

Paul - we definitely need a change. In an ideal world, I would like to combine the school and the municipality. Kind of a city form of government, doesn't think it is as close to the people as a town form of government. Wants the strongest person in town to be an elected person. Doesn't like the idea of an appointed person being in the position of the greatest power. Agrees in checks and balances.

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Bill - There are many budgets, school, town, and Pinkerton call for consultation of views and people get angry at each other when they should direct their anger at the people responsible for the budget. A mayor, administrator or whoever they elected. The form of government will not lower taxes, but should help in stabilizing them.

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Ray Gaston - Administrative - council form of government with a budget committee.

Mr. Bill - One thing that keeps bothering him. Berry's gone through a drastic population increase. Some Massachusetts towns are the same size as ours but are still towns and they seem okay.

Feinauer feels these Massachusetts towns haven't gone through the bad problems that we have. We are a bedroom town and don't have the businesses. Derry needs to establish single type of mind.

Grant Benson -Massachusetts has an income tax. Problems they have are not as significant.

Mike Gill - Cost to run government may be similar to Derry. Derry has explosive growth, has gone through a lot of types of government.

Bill Zolla asked Mike to get information on municipal and school budgets.

Grant Benson - feels that we need to put a cap on expenses. We are a bedroom town and people like our school system so they keep moving here. State doesn't want a broad based tax. We need something.

Fred - Difficulty in our community is too many people. Problems to overcome what predecessors voted on.

Paul -Although I don't necessarily think the goal of the charter commission should be to try and affect the tax policy in the changes of the charter. I do think access and accountability can be changed through the charter. Always there are things that can be done. I am going to be open to what we can do. I would like to have a citizen survey again. I don't have a problem with the Derry News doing it.

Bill - We have already had a public meeting and now we are going to have a second one. Some point in time you have to make ~~that~~ decision. Last time we did a survey we took every tenth name on the voter checklist. We got 200 returns from sending out 1500.

Jack - feels it difficult with a survey I don't disagree but if we do it again we do it to every household. This is a big expense. Something else is more important-- lot of work involved in pulling the charter together especially if we change it. There is much more work.. The public will never see the documentation and the RSAs and everything else that you are going to look over the next few months. The public is just too busy. You open up the public hearings for them to say their piece. We were elected by them and they will tell us at the end if they like it or not. We are the ones that are going to be doing all the work and will listen to the information from Andrews or the Secretary of State.

Paul - Just wanted to make it clear that I have strong opinions and I like the public to have access to everything.

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Paul - Just wanted to make it clear that I have strong opinions and I like the public to have access to everything.

Roy - stated that when John Andrews was over in Londonderry they had about four people at that meeting. We are going to give the public every opportunity to attend and we want their input and hope we will get it.

Question again on public input. If all meetings are open to the public, looking at the turn out we have and the turn out at the last Charter Commission meeting, is it going to be our practice to let the public speak at our regular workshop meetings and if that's the case, then I think they have every opportunity to let us know.

Mrs. Robie, I would like to ask you the question -do you think change is needed? Yes, I do. As far as public participation is concerned, the public is intimidated. The public does not dare to get up publicly and voice their opinion because 9 times out of 10 they are shot down. That is why you don't see anyone at meetings. I don't know what you are going to do about it but I don't like it.

Jim - would like to recommend that on July 24th and August 7th we find an air conditioned place whether it's the Hood School Library or the Town Library. Feinauer will try to get one or the other.

Mike mentioned Proposition 2 1/2. To early to bring this up.

Voted to adjourn.

Adjourned at 9:00 p.m.

R.F./Cathy Goldthwaite

c.c. min. #3

DERRY CHARTER COMMISSION
MEETING

P1-2

June 12, 1995

Public Meeting, Grinnell School, 7:30

Members present:

Grant Benson

Jack Dowd

Roy Feinauer

Steve Gill

Paul Newcomb

Sandra Thompson

James W. W.

Frank Thompson

July 12, 1995

TOWN OF DERRY

The Charter Commission will hold a workshop at the Derry Town Hall on July 17, 1995, at 7:00 PM. The public is welcome.

On July 24, 1995, there will be a public meeting for the purpose of explaining the various types of governments now available to a municipality under the revised laws of the State of N.H. John Andrews, Executive Director of the N.H. Municipal Association, will be the guest speaker.

It will be held at the Hood School Library, 7:00 PM.

Roy Feinauer, Secretary

PHILIP GAZTA: We have a town form of government and should become a city. We are to have to continue handling things as a town.

DAVID LEFRANCOIS: There are 4 things to be considered - 1. A strong manager type of gov't, whether we are a town or a city. Need a good administrator not a politician. 2-To make it clear that the town gov't will not have any impact on the tax rate. It is the tax system and tax structure that needs to be changed. 3-We should look at the city form of gov't and weigh it's advantages or disadvantages, but not make a change just for change sake. 4-Commission should realize that the Charter has to do with the town side of the municipality and that the school is an entity in its own right and that it must decide what it shall do by its own actions. 5-Because of the small turnout at this meeting there should be another meeting at a more convenient place so the commission could get more public information.

MICHAEL GAVRISH: Question that having a charter commission at this time may be a method being pushed by the Derry Tax Payers group to control the school budget as the Friends of Education won out at the last school meeting.

DAVE NELSON: Wants to continue with town council gov't. Believes more input by the people is important but does not want town to rush into some non-conventional form of gov't. To go back to having town meetings. Considers city gov't as it may have a tendency to grow larger whereas he thinks gov't should be smaller. Need more input from public as attendance is low tonight.

MARION WILLIS: Believes present charter needs a chance to work, we need stability not just change. A change in gov't will not effect the tax rate - we must support and have people in office that work for and not against our gov't. Need to enlarge our tax base. Supports Dave Lefrancois's views.

ERNEST BARKA: Does not think that a Mayor type gov't could understand or have a say in vote on a school budget, is in

DERRY CHARTER COMMISSION
MEETING

PI-2

June 19,, 1995

Public Meeting , Grinnell School , 7:30

Members present:

Grant Benson

Paul Hopfgarten

Jack Dowd

Sandra Hopfgarten

Roy Feinauer

James Lupien

Mike Gill

Fred Tompkins

Willaim Zolla

William Zolla opened the meeting at 7:30 p.m. He advised that this public meeting was being held in compliance with State laws for the purpose of receiving public input, views and comments regarding the present or a new revised charter. It was being held 14 days after the commission election as required by law. He advised that it was for the sole purpose of hearing what the public had to say and that the commission was only here to listen to the public comments.

The first speaker Michael Relf: A lot of discussion whether Derry should be a city or a town but believes this decision should not be made until it is determined what the town wants. Wants the school and town to some how get together and determine what the town can afford to pay in taxes and to limit the spending between the two budgets accordingly. The number of voters make it too large to have town meetings.

PHILIP GAETA: We have a city form of government and should become a city. We are to large to continue handling things as a town.

DAVID LEFRANCOIS: There are 4 things to be considered -1 A strong manager type of gov't , whether we are a town or a city. Need a good administrator not a politician. 2-To make it clear that the form of gov't will not have any impact on the tax rate. It is the tax system and tax structure that needs to be changed. 3-We should look at the city form of gov't and weigh it's advantages or disadvantages, but not make a change just for change sake. 4-Commission should realize that the charter has to do with the town side of the municipality and that the school is an entity in its self and that it must decide what it shall do by its own actions. 5-Because of the small turnout at this meeting there should be another meeting at a more comfortable place so the commission could get more public information.

MICHAEL GAVRISH: Questions that having a charter commission at this time may be a method being pushed by the Derry Tax Payers group to control the school budget as the Friends of Education won out at the last school meeting.

DAVE NELSON: Wants to continue with town council gov't , believes more input by the people is important but does not want town to rush into some non-conventional form of gov't, or to go back to having town meetings. Questions city gov't as it may have a tendency to grow larger whereas he thinks gov't should be smaller. Need more input from public as attendance is low tonight.

MARION WILLIS: Believes present charter needs a chance to work, we need stability not just change. A change in gov't will not effect the tax rate--we must support and have people in office that work for and not against our gov't. Need to enlarge our tax base. Supports Dave Lefrancois's views.

ERNEST BARKA: Does not think that a Mayor type gov't could understand or know how to vote on a school budget. Is in

DEBBY CHARTER COMMISSION
MEETING

June 18, 1995

Public Meeting, Grinnell School, 7:30

Members present:

Grant Benson
Jack Bowd
Roy Feltner
Mike Gill
Paul Hopfsten
Sandra Hopfsten
James Lupton
Fred Tompkins
William Zolla

William Zolla opened the meeting at 7:30 p.m. He advised that this public meeting was being held in compliance with State law for the purpose of receiving public input, views and comments regarding the present or a new revised charter. It was held 14 days after the commission election as required by law. He advised that it was for the sole purpose of hearing what the public had to say and that the commission was only going to listen to the public comments.

The first speaker Michael Bell: A lot of discussion whether Barry should be a city or a township. He believes this decision should not be made until it is determined what the town wants. Wants the school and town to come together and determine what the town can afford to pay in taxes and to limit the spending between the two budgets accordingly. The number of voters make it too large to have town meetings. PHILIP GASTA: We have a city form of government and should become a city. We are too large to continue handling things as a town.

DAVID LERANCOIS: There are 4 things to be considered - 1. A strong manager type of gov't, whether we are a town or a city. Need a good administrator not a politician. 2. To make clear that the town elgov't will not have any impact on the tax rate. It is the tax system and tax structure that needs to be changed. 3. We should look at the city form of gov't and weigh it's advantages or disadvantages, but not make a change just for change sake. 4. Commission should realize that the charter has to do with the town side of the municipality and that the school is an entity in its own right and that it must decide what it shall do by its own actions. 5. Because of the small turnout at this meeting there should be another meeting at a more comfortable place so the commission could get more public information.

MICHAEL DAVISH: Question: What having a charter commission at this time may be a method being pushed by the Barry tax payers group to control the school budget as the Friends of Education won out at the last school meeting. DAVE NELSON: Wants to continue with town council gov't. Believes more input by the people is important but does not want town to rush into some non-conventional form of gov't or to go back to having town meetings. Questions city gov't as it may have a tendency to grow larger whereas he thinks gov't should be smaller. Need more input from public as attendance is low tonight.

MARION WILLIS: Believes present charter needs a chance to work, we need stability not just change. A change in gov't will not affect the tax rate - we must support and have people in office that work for and not against our gov't. Need to enlarge our tax base. Supports Dave Lerancois's views. ERNEST BARRA: Does not think that a Mayor type gov't could understand or know how to vote on a school budget. It is

favor of a strong city manager not a strong Mayor. Can fire a a bad administrator but not a bad mayor.

MICHAEL RELF: Wants to have more districts so that there are more district councilors and not so many at large. He would like to vote on budgets as the new laws allow.

ERIC FERREN: Does not want either the DTA or the FOE to control budgets. Wants commission to study fiscal advantages of going to a city. Believes school meetings are not working and voting on 1 of 3 budgets would be better.

JOHN MIAKISZ: School meetings do not work, many people cannot attend, the ballot method is better.

JOHN GLEASON: Believes we should stay with the present form of gov't to give it a chance to work. If there is to be a change perhaps we should consider a representative form of gov't.

DAVID NELSON: Wants more information on the different types of gov'ts now available. Questions the voting by ballot method as a good way to go.

PHILIP GAETA: If we have a city, wants a strong administrator rather than a strong mayor.

ERIC FERREN: Would like to know if a city would be able to offer more incentives to business, and would also like to have more information on different types of gov'ts.

MICHAEL RELF: Wants a six month period after the election of councilors before working on budgets.

GORDON GRAHAM: Town is making a mistake in looking for the perfect gov't, the form of gov't is not the answer to whether taxes are going up or going down. Changing the form of gov't is a problem as it take time to get used to a new way of doing things. We have a good form of gov't now and should look to improving what we have.

JAY MADNICK: Derry is in need of a professional administrator, the present charter is working and we should keep politics out and do as little as possible to adjust it..

ERIC FERREN: Wants to keep legal expenses down as much as possible.

JAMES MACEACHERN: We should stay as we are. The ballot bill is not the answer as people will not bother or will not receive the proper information allowing them to vote intelligently. Perhaps at some time we could consider having more districts.

JOHN MIAKISZ: If the new form of gov't is working, wants to know why he has a 21% in taxes? Believes we need a mayor type gov't with the school and town under one roof.

This concludes the public meeting.

The next meeting of the charter commission will be on Monday June 26 at 7:00, town hall.

Roy F. Sec.

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MICHAEL REEF: Wants to have more districts so that there
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know why he has a fix in taxes? Believes we need a mayor type
gov't with the school and town under one roof.

This concludes the public meeting.
The next meeting of the charter commission will be on
Monday June 28 at 7:00, town hall.

Ref. to

OK

DERRY CHARTER COMMISSION
MEETING

MEETING OF JUNE 8, 1995 AT TOWN HALL.

The meeting started at approximately 7:15 P.M. with Town Clerk, Pauline Myers, officiating.

The oath of office was administered to :

GRANT BENSON, Jr..

ROY FEINAUER

MIKE GILL

JAMES LUPIEN

PAUL HOPFGARTEN

FREDERICK TOMPKINS

SANDRA HOPFGARTEN

WILLIAM ZOLLA

JACK DOWD

The election of officers took place as follows:

WILLIAM ZOLLA, CHAIRMAN

PAUL HOPFGARTEN, VICE CHAIRMAN

ROY FEINAUER, SECRETARY

The meeting was then turned over to the Charter Commission Chairman Bill Zolla.

It was voted that the regular meeting of the Commission would be on Monday evenings at 7:00P.M. at Town Hall.

Feinauer brought up the question of hiring a recording secretary. Tompkins advised the commission that the town would furnish the necessary manpower to type the minutes of the meetings and that it, the town, would absorb through it's departments and accounts any expense that the commission incurred.

This was discussed and it was felt by some that ,because the Charter Commission had no money allocated to it ,it became dependent upon the town to approve any payments the Commission should incur .This , in effect, would then take away the obligation of the Charter Commission of being responsible for it's finances and would be contrary to the intent of RSA 49-B:4 1V(a),(b). which refers to the Charter Commission's account and to it's filing a public report with the town clerk of all it's receipts and expenditures.

Jack Dowd proposed that the Commission accept use of town funds, use of town secretaries, etc. with no particular line items defined for the Commission, and to have an attorney rule whether or not this was legal. This was voted down with 1 vote yes and 8 votes no.

Dowd then proposed that the sum of \$25,000 be allocated by the town in a special account for use of Charter Commission. This was so voted with 8 votes yes and 1 abstaining.

It was then voted that a public meeting in compliance with RSA-B:4 V would be held June 19, at 7:30 PM for the purpose

of receiving public input as to it's views or comments regarding the present charter or a revised charter. The Commission will only listen to what ever is said ,and is not to promote or offer information at this time. Feinauer is to find out which place will be available, Library or possible the Grinnell cafeteria, and to get notices in the Union Leader, the Eagle Tribune & Derry News.

Voted to have the chairman Bill Zolla be the official spokesperson for the Commission, and that he approve all invoices before sending them to finance for payment.

Copies of the minutes are to be available to the public at town hall and each library. Feinauer will use the \$100 that is available to the Commission to purchase binders as needed.

It was voted unanimously to ^{contact.}~~engage~~ Martin L. Gross as our attorney. Bill Zolla will Contact him. Mr. Gross was the lawyer for the previous charter commission and had charged us \$11,000 for his services, Mike Gill would like a total of the hours billed. Feinauer will provide.

John Andrews, Executive Director of the New Hampshire Minicipal Association has offered to met with us to talk about the charter process and matters pertaining to charters in general. It was agreed to contact him regarding same.

Next meeting---Monday , June 19, 1995.
Adjourn approx. 8:45

Roy Feinauer Sec.

PAUL NEWCASTER Tel 431-4311
200A Hampstead Road, Derry

SANDRA NEWCASTER Tel 431-4311
200A Hampstead Road, Derry

JAMES E. LEWIS Tel 431-4311
43 Amherst St, Derry

FREDERICK THOMPSON Tel 431-4311
19 Brookview Dr, Derry

WILLIAM ZOLLA Tel 431-4311
3 Pond Road, Derry

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Next meeting--Monday, June 19, 1995.

Adjourn approx. 8:45

Roy Reimann, Sec.

DERRY CHARTER COMMISSION
1995

GRANT BENSON Jr. Tel. 432-3753 B432-2531
33 East Derry Road
P O Box 444 , Derry

JACK DOWD Tel. 434-1356 B.434-4138
8A Perley Rd. Derry
(Mail to 2 Linlew Dr. --Business)

ROY FEINAUER Tel. 432-2856
22 Schurman Dr. Derry

MIKE GILL Tel.434-5647
173 Warner Hill Rd. Derry

PAUL HOPFGARTEN Tel 426-5159
206A Hampstead Road, Derry

SANDRA HOPFGARTEN Tel 426-5159
206A Hampstead Road, Derry

JAMES E. LUPIEN Tel 434-0969
43 Amherst Dr. Derry

FREDERICK TOMPKINS Tel 432-9425
10 Brookview Dr. Derry

WILLIAM ZOLLA Tel 432-7577
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DERBY CHARTER COMMISSION
1982

GRANT BENSON Jr. Tel. 432-3753 B.432-2531
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(Mail to 2 Linton Dr. --Business)

ROY FRINAUER Tel. 432-2552
22 Schuman Dr. Derby

MIKE GILL Tel. 434-5647
177 Warner Hill Rd. Derby

PAUL HOPFGARTEN Tel. 432-5152
208A Hampstead Road, Derby

SANDRA HOPFGARTEN Tel. 432-5152
208A Hampstead Road, Derby

JAMES E. LUPIN Tel. 434-0928
43 Ashurst Dr. Derby

FREDERICK TOMPKINS Tel. 432-5425
19 Brookview Dr. Derby

WILLIAM ZOLLA Tel. 432-1577
3 Pond Road, Derby

DERRY CHARTER COMMISSION
PRELIMINARY SCHEDULE
(Revised 6/21/95)

Tuesday	May	23:	Election of Commission	
Thursday	June	8:	Organization Meeting	
Monday	"	19:	Public Meeting RSA 49-B:4,V	
"	"	26:	Meeting	
"	July	3:	Vacation	
"	"	10:	Vacation	Days
"	"	17:	Meeting	May 8
"	"	24:	John Andrews	
"	"	31:	"	June 30
"	Aug.	7:	"	July 31
"	"	14:	"	Aug. 31
"	"	21:	"	Sept 30
"	"	28:	"	Oct. 31
"	Sept	4:	"	Nov. 19
"	"	11:	"	<u>180 days</u>
"	"	18:	"	
"	"	25:	"	
"	Oct	2:	"	Nov. 11
"	"	9:	"	Dec 31
"	"	16:	"	Jan 3
"	"	23:	"	<u>225 days</u>
"	"	30:	"	
"	Nov	6:	"	
"	"	13:	"	
Sunday	"	19:	180 days from election. Preliminary report RSA 49-B:4,V Submission to Sec. State, Att. Gen., Dept of Revenue. with in 10 days of this report. Copies to public.	
Monday	"	20:	Open	
"	"	27:	"	
"	Dec	4:	"	
"	"	11:	"	
"	"	18:	"	
"	"	25:	Christmas 1996	
"	Jan	1:	Happy New Year	
Wednesday	"	3:	Final report. 225 days after election of May 23. RSA 49-B:4,V. Written opinion of attorney-charter complies with N.H. State law.	
Friday	Feb.	2:	File financial report with town clerk, public information. RSA 49-B:4,1V.	
Sunday	Mar.	3:	Last day for charter commission to finish winding up its affairs. RSA 49-B:4,V11.	

THE END

DERRY PUBLIC LIBRARY



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DERRY COLL 352.074 der 1995
Derry Charter Commission meeting.
Meeting, 1995.

For Reference

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